

1 VIRGINIA:

2 IN THE COUNTY OF WASHINGTON

3 VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY

4 VIRGINIA GAS AND OIL BOARD

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8  
9 OCTOBER 21, 2003

10  
11  
12 APPEARANCES:

13 MASON BRENT - REPRESENT GAS & OIL INDUSTRY

14 KENNETH MITCHELL - CITIZEN APPOINTEE

15 DONALD RATLIFF - COAL REPRESENTATIVE

JAMES MCINTRYE - PUBLIC MEMBER

16 BENNY WAMPLER - DIRECTOR OF THE DMME & CHAIRMAN

17 SHARON PIGEON, COUNSEL FOR THE BOARD WITH THE ATTORNEY

18 GENERAL'S OFFICE

19 GARY EIDE, INSPECTOR

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8 \*\* Minutes of last meeting

9 \*\*\*Copy of agenda attached

10

11 BENNY WAMPLER: Good morning. My name is Benny  
12 Wampler. I'm Deputy Director for the Department of Mines,  
13 Minerals and Energy, and Chairman of the Gas and Oil Board.  
14 I'll ask the members to introduce themselves, starting with  
15 Mr. Brent.

16 MASON BRENT: My name is Mason Brent. I'm from  
17 Richmond, and I represent the gas and oil industry.

18 KEN MITCHELL: My name is Ken Mitchell. I'm from  
19 Stafford County. I'm a citizen appointee

20 SHARON PIGEON: I'm Sharon Pigeon. I'm with the  
21 office of the Attorney General.

22 DONALD RATLIFF: I'm Donnie Ratliff. I'm from Wise  
23 County, and I'm an industry representative.

24

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1           JIM MCINTYRE: Jim McIntyre. I'm from Wise,  
2 Virginia, and I'm a citizen appointee.

3           GARY EIDE: I'm Gary Eide. I'm sitting in for Bob  
4 Wilson who couldn't be here today. Bob is the Director of  
5 the Division of Gas and Oil and principal executive to the  
6 staff of the Virginia Gas and Oil Board.

7           BENNY WAMPLER: Thank you. The first item on the  
8 agenda today, we have a request to combine docket items one,  
9 six and nine. I'm going to go ahead and read those docket  
10 numbers and ask that if there is anybody here requesting to  
11 make a representation to the Board. The first is a petition  
12 from CNX Gas Company, LLC for pooling of a coalbed methane  
13 unit AW-102, docket number VGOB-03-0819-1165. The second is  
14 a petition from CNX Gas Company, LLC for pooling of coalbed  
15 methane unit BC-102, docket number VGOB-03-1021-1201. Then  
16 finally a petition from CNX---

17           LINDA K. WOODWARD: Are we suppose to answer if  
18 we're here for that?

19           BENNY WAMPLER: When I finish, yes.

20           LINDA K. WOODWARD: Okay.

21           BENNY WAMPLER: A petition from CNX Gas Company,  
22 LLC for pooling of a coalbed methane unit BD-101, docket  
23 number VGOB-03-1021-1204. We'd ask all the parties that wish  
24

1 to address the Board in these matters to come forward at this  
2 time.

3 MARK SWARTZ: Mark Swartz and Les Arrington.

4 BENNY WAMPLER: Now, if you do wish to address the  
5 Board regarding these items, you would need to come forward  
6 and state your name for the record for any of these.

7 LINDA K. WOODWARD: I'm number two.

8 BENNY WAMPLER: Well, we'll call that. That's not  
9 a part of this right now.

10 LINDA K. WOODWARD: Okay.

11 BENNY WAMPLER: Okay. The record will show there  
12 are no others. You may proceed, Mr. Swartz.

13 MARK SWARTZ: Would you put Mr. Arrington under  
14 oath for me?

15 (Leslie K. Arrington is duly sworn.)

16

17 LESLIE K. ARRINGTON

18 having been duly sworn, was examined and testified as  
19 follows:

20 DIRECT EXAMINATION

21 QUESTIONS BY MR. SWARTZ:

22 Q. If you'd state your name for us.

23 A. Leslie K. Arrington.

24

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1 Q. Who do you work for?  
2 A. CNX Gas Company.  
3 Q. What do you do for them?  
4 A. I'm manager of environmental and permitting.  
5 Q. Did you either prepare, or cause to be  
6 prepared under your direction, the notices of hearing,  
7 applications and exhibits with regard to the three Nora units  
8 that the Chairman has just called?  
9 A. Yes, I have.  
10 Q. And you signed the notices and the  
11 applications yourself?  
12 A. Yes.  
13 Q. Who is the applicant?  
14 A. CNX Gas.  
15 Q. Is CNX Gas Company, LLC a Virginia general  
16 partnership?  
17 A. Yes, it is.  
18 Q. Is it a wholly owned indirect subsidiary of  
19 Consol Energy?  
20 A. Yes, it is.  
21 Q. Is CNX authorized to do business in the  
22 Commonwealth?  
23 A. Yes, it is.  
24

1 Q. And who is it that CNX is requesting be  
2 designated operator for these three units?

3 A. CNX Gas.

4 Q. Okay. In that respect, does CNX Gas have a  
5 blanket bond on file and is it registered with the Department  
6 of Mines, Minerals and Energy?

7 A. Yes, it is.

8 Q. Okay. Have you listed in the notices of  
9 hearing and the Exhibits B-3 the names of all of the folks  
10 that you're seeking to pool?

11 A. Yes, we are. Yes, we have.

12 Q. Okay. And the...I just want to comment with  
13 regard to AW-102. That was originally filed in August, I  
14 believe?

15 A. It was.

16 Q. And it has been continued and there's an  
17 amended notice number two which has updated the names and  
18 addresses and reflects additional due diligence, correct?

19 A. Yes, it does.

20 Q. Okay. What did you do to notify the folks  
21 that you've identified in the notices and in Exhibits B-3?

22 A. We mailed by certified mail, return receipt  
23 requested on the second time for AW-102 on September the 30th

24

--

1 of 2003. We published in the Bluefield Daily Telegraph on  
2 October the 3rd, 2003.

3 Q. Okay. And what about the other two units,  
4 BC-102 and BD-101?

5 A. Yes, we published in the Bluefield Daily  
6 Telegraph for BC-102 September the 23rd of 2003; mailed  
7 September the 19th of 2003. And for---.

8 Q. BD-101.

9 A. ---BD-101, published in the Bluefield Daily  
10 Telegraph September the 29th of 2003; mailed September the  
11 19th of 2003.

12 Q. Do you wish to add anybody to any of these  
13 units as a respondent?

14 A. No.

15 Q. Do you wish to dismiss anyone at this time?

16 A. No.

17 Q. Now, when you published in the Bluefield  
18 Daily Telegraph, did you publish both...did you publish the  
19 notice and the little map that's part of the application  
20 package?

21 A. Yes, we did.

22 Q. Each of these units is a Nora unit, is that  
23 correct?

24

--



1           A.       It is.

2           Q.       And the plan is that each unit will contain  
3 one frac well?

4           A.       Correct.

5           Q.       And in all three instances, there is no need  
6 for a location exception because all three of these wells are  
7 actually in the drilling windows?

8           A.       That's correct.

9           Q.       The acreage...the AW-102 is 58.76 acres,  
10 correct?

11          A.       Yes.

12          Q.       And the other two units are 58.78 acres, is  
13 that correct?

14          A.       I believe BC-102 is 58.74.

15          Q.       74, okay.

16          A.       I'm sorry, 58.78.

17          Q.       And what about 101?

18          A.       101 is 58.78.

19          Q.       Okay. What...what terms have you offered to  
20 the folks that you've been able to lease in these three  
21 units?

22          A.       For a coalbed methane lease, it's a dollar  
23 per acre per year with a five year paid up term, with one-  
24

1 eighth production royalty.

2 Q. And would you recommend those terms to the  
3 Board for folks that might be deemed to have been leased?

4 A. Yes, we would.

5 Q. And, again, this is a Nora unit. So, we  
6 would be talking about coalbed methane development from the  
7 Raven on down, correct?

8 A. That's correct.

9 Q. Okay. Let's...let's take the units now more  
10 specifically one at a time. Let's start with AW-102, okay.

11 A. Yes.

12 Q. What is it that...what are the interests  
13 that you've acquired and what are the interests that you're  
14 seeking to pool?

15 A. AW-102, we have a 100% of the coal leased  
16 beneath the unit; 100% of the coal owners' claim to coalbed  
17 methane; 99.49301% of the oil and gas owners' claim to  
18 coalbed methane. We're seeking to pool 0.50699% of the oil  
19 and gas owners' claim to coalbed methane.

20 Q. Basically about a half of a percent?

21 A. Yes.

22 Q. The...there's a...the well here, I believe,  
23 may have been drilled already?

24

--

1           A.       AW-102?

2           Q.       Yeah.

3           A.       It doesn't indicate that it has.

4           Q.       Okay.  There's a permit, though?

5           A.       Yes, it is.

6           Q.       What is that?

7           A.       5591.

8           Q.       And what is your estimate with regard to the

9 costs to drill and complete this well?

10          A.       \$236,983.11 to an estimated depth of 2287.

11          Q.       Okay.  And if folks wanted to figure out

12 what their percentage or what their dollar contribution would

13 be to become a partner or a participant in the unit, they

14 would take their percentage in Exhibit B-3 and multiply it

15 times \$236,983.11, correct?

16          A.       That's correct.  They would.

17          Q.       And that would give them their participation

18 interest?

19          A.       Correct.

20          Q.       And if they wanted to calculate their

21 royalty interest, they would take their percentage opposite

22 their name in Exhibit B-3 and multiply that times one-eighth

23 or twelve and a half percent?

24

1           A.       Correct.

2           Q.       There would be escrow for unlocateable folks  
3 and unknowns in Tract 2-A and 4, is that correct?

4           A.       That's correct.

5           Q.       There are conflicts requiring escrow in  
6 tracts 2A, 2B and 4?

7           A.       Correct.

8           Q.       And you've attached an Exhibit EE, which  
9 indicates some folks have split agreements?

10          A.       That's correct, we have.

11          Q.       And those are...those split agreements would  
12 affect tracts 2A and 4?

13          A.       Correct.

14          Q.       And is it your request that the Board order  
15 allow you to pay the people listed in Exhibit EE directly  
16 rather than escrowing their funds?

17          A.       That's correct.

18          Q.       Okay. Let's turn to Unit BC-102. In this  
19 unit, what is your well cost estimate?

20          A.       \$233,524.52, to a depth of 21...2100 feet.

21          Q.       That's an estimate, correct?

22          A.       Yes.

23          Q.       And what's the permit number?

24

1                   A.       5618.

2                   Q.       What have you acquired in this unit and what  
3 are you seeking to pool?

4                   A.       In this unit we have 100% of the coal  
5 leased, 100% of the coal owners' claim to coalbed methane  
6 leased; 99.6453% of the oil and gas owners' claim to coalbed  
7 methane. We're seeking to pool 0.3547% of the oil and gas  
8 owners' claim.

9                   Q.       Okay. So you're seeking to pool around a  
10 third of a percent?

11                  A.       Yes.

12                  Q.       Okay. Is escrow required in tract 1D, as in  
13 David, for an address unknown issue?

14                  A.       Yes, it is.

15                  Q.       And then there's also an escrow requirement  
16 for conflicts in tract 1D, as well?

17                  A.       That's correct.

18                  Q.       And there is an Exhibit EE attached, which  
19 deals with split agreements?

20                  A.       Yes, it does.

21                  Q.       And are you requesting that the Board order,  
22 if entered, allow you to pay the folks listed in Exhibit EE  
23 directly rather than escrowing their conflicting claims with  
24

1 regard to tracts 1A, 1B, 1C and 1D?

2 A. That's correct.

3 Q. Lastly, let's turn to Unit BD-101. What's

4 your well estimate with regard to this unit?

5 A. \$236,074.14. The permit number is 5669,

6 drilled to a depth of 2,268 feet.

7 BENNY WAMPLER: 68 or 60?

8 A. 68 was the (inaudible).

9 Q. So, that's---?

10 A. It has been drilled.

11 Q. So that the Exhibit C was an estimate at

12 2260, and you're now...you've got a total depth at 2268?

13 A. That's correct.

14 Q. What have you acquired and what are you

15 seeking to pool?

16 A. In this unit we've acquired 100% of the coal

17 for the unit, 100% of the coal owners' claim to coalbed

18 methane, 68.0877% of the oil and gas owners' claim to coalbed

19 methane. We're seeking to pool 31.9123% of the oil and gas

20 owners' claim to coalbed methane.

21 Q. There are escrow requirements because of

22 unknown addresses, correct?

23 A. Correct.

24

1 Q. And that would affect 2A, 2B, 2C and 2J?  
2 A. Correct.  
3 Q. Then you've got an escrow requirement  
4 because of conflicting claims that's reflected in your  
5 Exhibit E, correct?  
6 A. Correct.  
7 Q. And that would affect tracts 2A, 2B, 2C, 2D,  
8 2E and 2J, right?  
9 A. Correct.  
10 Q. Lastly, there's an Exhibit EE, which would  
11 indicate that you have split agreements?  
12 A. Correct.  
13 Q. And those split agreements are among  
14 conflicting claimants in tracts 2F, 2G, 2H, 2I and 2K, is  
15 that correct?  
16 A. That's correct.  
17 Q. And are you requesting that any Board order  
18 that is entered here with regard to BD-101 allow the  
19 designated operator to pay the folks identified in Exhibit EE  
20 directly in accordance with their split agreements?  
21 A. Yes, I would.  
22 Q. Lastly, is it your opinion with regard to  
23 all three of these units that the plan for development that's  
24

1 disclosed by the application and exhibits, which is  
2 specifically to drill one frac well in the drilling window in  
3 each unit, is a reasonable plan to develop the coalbed  
4 methane under these units?

5 A. Yes, it is.

6 Q. And if you combine the leasing that you've  
7 been able to accomplish with the pooling orders that are  
8 sought here, will those two things protect the correlative  
9 rights of all owners and claimants?

10 A. Yes, it will.

11 MARK SWARTZ: That's all I have.

12 BENNY WAMPLER: Questions from members of the  
13 Board?

14 (No audible response.)

15 BENNY WAMPLER: How active is your ongoing effort  
16 to lease these other parties?

17 A. I'm sorry?

18 BENNY WAMPLER: How active is your ongoing effort  
19 to lease these other parties?

20 A. Our leasing activities continues day by day.  
21 We have folks in the field every day.

22 BENNY WAMPLER: Once they're pooled by the Board  
23 like this, is there...how would you judge the activity to

24

--



1 lease after?

2           A.       After the fact? Any additional leases that  
3 the folks will call in about or they send on in, we continue  
4 to process those and move forward, continuing.

5           BENNY WAMPLER: Other questions from members of the  
6 Board?

7           JAMES MCINTYRE: How do you handle...you said you  
8 have people that didn't have addresses, and it's pooled, how  
9 long does that money lay in escrow? It could be unclaimed.  
10 It could go unclaimed, is that correct?

11          A.       That's correct, it can.

12          BENNY WAMPLER: Do you have anything further, Mr.  
13 Swartz?

14          MARK SWARTZ: No.

15          BENNY WAMPLER: Is there a motion?

16          DONALD RATLIFF: Mr. Chairman, I move that we  
17 approve AW-101, item one on the agenda; item six on the  
18 agenda, BC-102; and BD-101, item nine on the agenda. I move  
19 we approve them.

20          BENNY WAMPLER: Just one maybe correction. I think  
21 you said AW-101. It's AW-102.

22          DONALD RATLIFF: AW-102.

23          BENNY WAMPLER: Is there a second?

24

--

1                   DONALD RATLIFF:   Second.

2                   BENNY WAMPLER:   Motion and second.   Any further  
3 discussion?

4                   KEN MITCHELL:   Mr. Chairman, is that a motion for  
5 one, six and nine?

6                   BENNY WAMPLER:   Yes.

7                   KEN MITCHELL:   Okay.

8                   BENNY WAMPLER:   All in favor, signify by saying  
9 yes.

10                   (All members signify by saying yes, except Ken  
11 Mitchell.)

12                   BENNY WAMPLER:   Opposed, say no.

13                   KEN MITCHELL:   No.

14                   BENNY WAMPLER:   You have approval.   One no.   You  
15 have approval.   Thank you.   The next item on the agenda is a  
16 petition from CNX Gas Company, LLC for pooling of a coalbed  
17 methane gas unit AV-99.   This is docket number VGOB-03-0916-  
18 1185 the Board continued from the last hearing.   We'd ask the  
19 parties that wish to address the Board in this matter to come  
20 forward at this time.

21                   MARK SWARTZ:   Mark Swartz and Les Arrington.

22                   BENNY WAMPLER:   Mark, do you care to reposition the  
23 microphone...your mike and then slide that one over more to  
24

1 the center. State your name for the record, please.

2 LINDA K. WOODWARD: Linda Woodward.

3 BENNY WAMPLER: Do you plan to testify or question?

4 If you're going to testify, we'll just get you sworn in up  
5 front.

6 LINDA K. WOODWARD: Well, I don't know whether you  
7 would call it testifying but I guess that's all I have to do  
8 is a statement.

9 BENNY WAMPLER: Let's go ahead...let's go ahead and  
10 do that. Just swear her in.

11 (Ms. Woodward is sworn in.)

12 BENNY WAMPLER: I would remind the Board that they  
13 have a copy of the letter from Mr. Swartz to me and you also  
14 have a letter that was faxed yesterday, but distributed today  
15 to Ms. Woodward. Mr. Swartz, you may proceed.

16 MARK SWARTZ: I'm done. We put in all the evidence  
17 last week. We went back and did our due diligence work,  
18 which is summarized in the October the 6th letter. We have  
19 actually mapped the property that Ms. Woodward contends that  
20 she has an interest in and is definitely well out of the unit  
21 in question. That's where we are.

22 BENNY WAMPLER: Questions from members of the Board  
23 regarding Mr. Swartz' letter. You're saying there are no

24

--

1 tracts in this unit that have not been fully accounted for in  
2 the previous filed Exhibit B-3?

3 MARK SWARTZ: Correct.

4 MASON BRENT: Did you send Ms. Woodward a copy of  
5 that letter?

6 MARK SWARTZ: I didn't have her address. So, I  
7 sent it to the Board. I gather...or sent it to the...you  
8 guys did, okay. My client did. I did not.

9 BENNY WAMPLER: Ms. Woodward, we'll hear from you.  
10

11 LINDA K. WOODWARD: Thank you. When we...excuse  
12 me. When we left here September the 16th, 2003, we were with  
13 the understanding, lack of communication, and there would be  
14 a meeting in Grundy and we would get all the deeds and  
15 research that we needed done, and then we would be notified  
16 of this Board meeting. We gave the lady this...I forget her  
17 name sitting over here, our address and our phone numbers.  
18 We kept waiting. I think the Hess family is too honest. We  
19 kept waiting for a letter or a call telling us when this  
20 meeting was and we never heard anything. I received this  
21 letter October the 14th. I read it and I keep reading it and  
22 I would like for you'uns to read the letter also. I read it  
23 and I was wondering if they omitted only Linda Woodward's or  
24

--

1 did they omit the whole Hess heirs. So, I took this letter  
2 to a lawyer friend of mine the next day and I asked him to  
3 read this letter for me to tell me if they had omitted just  
4 my piece of land or had they omitted the whole family...the  
5 whole heirs. He said he couldn't tell me because the letter  
6 was not clear enough. So, I went home and I pulled out the  
7 dictionary to find omitted and what it means. It means to  
8 pass over, neglect, not to insert or to mention. Well, I was  
9 born and raised on this piece of land. I went back and I  
10 pulled and looked at CNX first that they got us...that they  
11 sent us. I went back and looked at who they've already  
12 got...who they've leased. They've list...they've got Maggie  
13 Hale, Christine Hale, Phyllis Tiller, Earl Hale, Shelby Hale,  
14 Verlin Hale, Crystal (inaudible), Raymond Hess, Otis Hess. I  
15 don't understand how they can be...do that because it's like  
16 mine is here, Otis' is here, Phyllis Tiller's is here. Then  
17 I get it with this omit that we're just not going to be  
18 mentioned. Are they going in and taking the gas out without  
19 mentioning the Hess heirs? I guess what I'm here to ask you  
20 today is if I said something that was wrong September the  
21 16th, don't punish the whole Hess family, the whole Hess  
22 heirs. If one has to be omitted, let it be mine. I still  
23 think they're totally wrong. I asked the Board if they don't

24

--

1 believe what I'm saying, I would like for them to come and  
2 look at this piece of land. There are no way...there are no  
3 way possible that they could omit this from getting to the  
4 Hales, the Hess', it's in the middle. There are no way that  
5 they can go around it unless they just suck the gas out and  
6 don't mention it. I'm saying what they're doing is wrong. I  
7 would like the Board to vote in favor of the Hesses. I mean,  
8 that's just James Coy Hess' heirs. It's just as plain and  
9 simple.

10 I mean, we would not have even known about this  
11 meeting today. We got a phone call yesterday afternoon from  
12 somebody from CNX, would not give us their name. That's how  
13 we knew about this meeting today and that is why we're here  
14 today, not because anybody sent us a letter to let us know  
15 about this meeting. I guess by this letter that we got, that  
16 it was just omitted. Even a lawyer can't explain to me what  
17 that means. The dictionary very well explained it to me,  
18 what it meant. But I don't know if it's just mine or if it's  
19 my entire family's.

20 I would like the Board to...there are just no way.  
21 This piece of land is like two mountains like this, with a  
22 road in the middle. This well is right at the end, not quite  
23 at the end of it. They've got even my brother's, Raymond's,

24

--

1 that's way down below where mine is and where the home place  
2 is. The Hale's is like on this side of it. We're right dead  
3 set in the center of it.

4 BENNY WAMPLER: Well, what this letter says to me  
5 is, he's saying that it is...that your property is not in AV-  
6 99 unit, that it's northeast of that one. I looked at the  
7 Exhibit A-1 that they have where that...that tells me that  
8 it's in the FF...one of the FFs. I can't tell by it exactly,  
9 but I would say that it would be in FF-99 or FF-100.

10 MARK SWARTZ: It's in an Oakwood unit.

11 LINDA WOODWARD: I still have to disagree with this  
12 Exhibit A, that this map is totally wrong.

13 MASON BRENT: That would be like in FF-14, because  
14 that's Oakwood and not Nora?

15 BENNY WAMPLER: Right. Above that line is Oakwood,  
16 so that would be 14 or 17.

17 MASON BRENT: Right, yeah.

18 BENNY WAMPLER: I was looking at it wrong. Their  
19 Exhibit overlays both of them.

20 MASON BRENT: Right.

21 MARK SWARTZ: What you can see from this map is the  
22 Oakwood units which lie above the unit that we're talking  
23 about. There are a number of Hess tracts. There's the Larry  
24

1 Woodward tract. There's the Hale tract. You know, they're  
2 all in Oakwood units, which is one of the make up units,  
3 probably a 89 or 90 acre unit, lying to the northwest of the  
4 unit that we're talking about today. So in spite of, you  
5 know, allegations that my people are incompetent, that they  
6 don't understand title, that they can't map, I mean, you  
7 know, we went back and looked at this, you know, and did this  
8 additional mapping so that we could come in and show you  
9 where these tracts are.

10           You will notice that some of the tracts to the  
11 northeast actually come into the unit that we're talking  
12 about and the owners of those tracts that actually partially  
13 come into this unit are listed on Exhibit B-3, and are  
14 accounted for in the title with regard to this tract. So,  
15 you know, that's where we are. This piece of ground is in a  
16 completely different unit.

17           BENNY WAMPLER: Who prepared this map?

18           LESLIE K. ARRINGTON: He's with us today.

19           MARK SWARTZ: Dave.

20           LESLIE K. ARRINGTON: Dave...David Miller and he's  
21 with us today.

22           BENNY WAMPLER: I'd like to bring him forward---.

23           MARK SWARTZ: Okay.

24

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1           BENNY WAMPLER: ---to have this entered as an  
2 Exhibit.

3           MARK SWARTZ: Okay. David, have a seat right here.

4           BENNY WAMPLER: Mr. Swartz, I'd just like for  
5 you---.

6           MARK SWARTZ: That's fine.

7           BENNY WAMPLER: ---to ask some preliminary  
8 questions and to get it entered as an Exhibit.

9           MARK SWARTZ: We need to put Mr. Miller under oath.  
10 (David Miller is duly sworn.)

11

12                           DAVID MILLER

13 having been duly sworn, was examined and testified as  
14 follows:

15                           DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17           Q.       State your name for us.

18           A.       David Miller.

19           Q.       Who do you work for?

20           A.       CNX Land.

21           Q.       What do you do for them?

22           A.       Property mapping, preliminary title  
23 research.

24

--

1                   Q.       I've got a map in front of me today that  
2 maps the AV-99 unit and also maps tracts surrounding that in  
3 the Middle Ridge, but also in the...I'm sorry, in the Nora,  
4 but also in the Oakwood above. Do you see that?

5                   A.       Yes.

6                   Q.       Did you prepare this map?

7                   A.       Yes, I did.

8                   Q.       And you'll notice that in the Oakwood unit  
9 to the northeast of the AV-99 unit, there is a Larry Woodward  
10 tract. Do you see that?

11                  A.       Yes, I do.

12                  Q.       There is...and there are a collection of  
13 Hess tracts?

14                  A.       That's correct.

15                  Q.       What information did you use or accumulate  
16 to allow you to do this map?

17                  A.       I have surveys and deeds of record that  
18 helped to locate those properties. Here's a copy, survey, of  
19 Ms. Woodward's tract that looks very similar to what's in FF-  
20 14. There are also surveys...that's in Deed Book 278, Page  
21 130. There's also deed references on all these tracts. Many  
22 of those tracts had surveys and that helped aid in the  
23 mapping.

24

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1           Q.       Based on the title research, the survey  
2 research, the platting and the mapping that you did, is there  
3 any doubt in your mind that the Larry Woodward tract that  
4 we're hearing about today is in an Oakwood unit and not in  
5 AV-99?

6           A.       There's no doubt. It's in FF-14.

7           MARK SWARTZ: That's all I have.

8           BENNY WAMPLER: Would you tell us your background,  
9 your education and work experience?

10          A.       I have a Civil Engineering degree in civil  
11 engineering technology, Bachelor of Science degree from  
12 Bluefield State College. I am a certified Virginia land  
13 surveyor and training. I've been working since 1983 with  
14 land surveying and mapping. Most of that time I've been a  
15 certified land surveyor.

16          BENNY WAMPLER: Questions from members of the Board  
17 of this witness?

18          MASON BRENT: Mr. Miller, you've been out there to  
19 this site---?

20          A.       Yes, I have.

21          MASON BRENT: ---yourself?

22          A.       Yes, sir.

23          LINDA K. WOODWARD: May I speak?

24

--

1                   BENNY WAMPLER:   Ma'am?

2                   LINDA WOODWARD:   May I speak?

3                   BENNY WAMPLER:   Yes.

4                   LINDA WOODWARD:   Then if this is correct, then

5 everything that CNX and their attorney here stated September

6 the 16th and was asking the Board to approve for them, and

7 what they're asking and telling today, is two totally

8 different tales.   So, when we met here September the 16th,

9 everything that we were...everything that they were asking

10 was in this right here.   I mean, this was not mentioned.

11 What they were telling September the 16th and what they're

12 telling today is two totally different tales.   They were here

13 September the 16th to pool the Hess' land.   They were not

14 here to advise you that it was in a different location.   They

15 never once September the 16th said, and I have the transcript

16 laying here in my lap, they never once September the 16th

17 said that it was in the Oakwood area.   The only time...the

18 only thing that was questioned then was when I told them

19 their map was wrong, and their map on Exhibit A is wrong, is

20 how my parents' land was laid out.   That's the reason I knew

21 their map was wrong.   So what they told September the 16th

22 and what they're telling today, and I ask you to read the

23 transcript from then and today, and you will see that both

24

1 days are different tales. Where is the land?

2           BENNY WAMPLER: The purpose of us continuing the  
3 hearing was to get an accurate account of the question you  
4 raised, and what they are representing that this is an  
5 accurate account of the question you raised. So, yes, I  
6 agree that things change from hearing to hearing. They can  
7 do that when we're asking questions and getting responses,  
8 but that's the purpose of it. Now their person has testified  
9 under oath that this is the way the land lays out. Do  
10 you...do you dispute that?

11           LINDA WOODWARD: Well, no, I really don't dispute  
12 the way this is laid out. It's just that they can't have the  
13 names and the heirs the way that they've bought these  
14 peoples' land and it to be laid out this way. It's just no  
15 way that that's feasible.

16           BENNY WAMPLER: I'm not sure I follow that.

17           MARK SWARTZ: Well, it's impossible to follow. I  
18 mean, you know, we have not modified our petition that was  
19 here last month in any way, shape or form. We're talking  
20 about a completely different unit. She's in another unit.  
21 You know, she wants to be right, but, you know, we're trying  
22 to pool the tracts or the interest in the Oakwood unit that  
23 these tracts are in today. I mean, if we come back here at

24

--

1 some point in the future, we can fight about that. But she's  
2 not in the unit that we were here on last month, and all  
3 these Hess tracts and the Hale tract are not in the unit.  
4 And, you know, we haven't changed one thing. You know, if we  
5 found something different, you would have an amended B-3  
6 today.

7 BENNY WAMPLER: I understand that.

8 MARK SWARTZ: All that's changed is, you know, you  
9 now have a map of an adjoining unit which locates her tract.  
10

11 BENNY WAMPLER: Which we need as an Exhibit. Is  
12 this to be Exhibit F or G?

13 MARK SWARTZ: G.

14 LINDA K. WOODWARD: I disagree with him saying that  
15 I want to be right. I could care less where CNX pumps that  
16 gas or not, but if they pump that gas, I want it to go to the  
17 Hess heirs, and I don't see how...well, it's them. I'm not  
18 an engineer. I don't know their work, but the way this land  
19 is, they cannot get the pieces of land that they've already  
20 got leased and bypass.

21 BENNY WAMPLER: Ma'am, the reason that we have the  
22 grid system that we have, the Nora and Oakwood both, is so  
23 that everyone gets paid and no one gets left out. That's the  
24

--

1 reason we have that grid. These two...these units, or these  
2 field rules, butt up against one another. What they're  
3 saying is that the land that you question is in the Oakwood  
4 field and not in the Nora field. The Nora unit is the  
5 subject of the hearing. There are Hesses in this Nora unit.  
6 There are Hesses in the Oakwood unit. But the subject of  
7 the hearing today is...and, Mr. Swartz, I'm going to ask you  
8 to verify or dispute this, is those folks that are in the  
9 Nora unit, and those exhibits have not changed.

10 MARK SWARTZ: Correct, they have not changed. I  
11 mean, we went back and did more mapping outside of the unit,  
12 checked the mapping in the unit. We also have the title  
13 people who went back there with this hearing today. They  
14 went back to revisit, were there's some heirships that we  
15 missed of tracts that are actually in the AV unit, and there  
16 was nothing that we determined that would cause us to be  
17 required to revise any of those exhibits as in error. I  
18 mean, we stand by what we had the last time we were here,  
19 having done, you know, a considerable amount of additional  
20 work to address the accusations that we were confronted with  
21 last month.

22 BENNY WAMPLER: Do you have...Mr. Arrington, do you  
23 have plans to develop FF-14?

24

--

1           LESLIE K. ARRINGTON: We would...we would like to  
2 contingent upon acquisitions.

3           MARK SWARTZ: Which is why you're leasing in that  
4 unit.

5           LESLIE K. ARRINGTON: Well, yes. Yes.

6           BENNY WAMPLER: Ms. Woodward, I asked that question  
7 just to say that whenever they do plan to drill in that unit  
8 and produce the gas, then they would...you would be dealing  
9 with the hearing if you didn't sign a lease and go through  
10 that. But what they're saying now is that you're not subject  
11 to this---.

12          LINDA K. WOODWARD: Just as long as I leave here  
13 today knowing that they did not touch that gas unless it's  
14 right.

15          BENNY WAMPLER: Well, I'm trying...I'm trying to  
16 help you understand what the Board has before it, okay. I  
17 can't, you know, I can't go where you're asking me to go, or  
18 asking this Board to go from a standpoint other than clarify  
19 for you what's before the Board.

20          LINDA WOODWARD: I know what they're doing. I  
21 really do. Then the land that they lease off of Otis Hess  
22 and the land that they leased off of Raymond Hess at one  
23 point of it, then they cannot touch cause it's in the wrong  
24



1 unit.

2           MARK SWARTZ: The problem she's having, you know,  
3 Raymond Hess has more than one tract. In the Oakwood unit,  
4 he has two tracts which abut the Larry Woodward tract. He  
5 also has another tract in AV-99. And the fact that we have a  
6 lease with him, or he has an interest in AV-99 is not because  
7 our mapping is screwy, it's because he owns three tracts...at  
8 least three tracts---.

9           LINDA K. WOODWARD: I know exactly where the three  
10 tracts are.

11           MARK SWARTZ: ---two of which are in one unit and  
12 one of which is in another. So to say that we are developing  
13 some land that Raymond Hess owns is irrel...it doesn't get  
14 you there to some assumption that we're developing anything  
15 under Woodward.

16           LINDA K. WOODWARD: The land you leased from Otis  
17 Hess is our back yard.

18           MARK SWARTZ: Well, look at where he is on the map.  
19 Most of the Otis Hess .59 acres is in the Oakwood unit. A  
20 little tiny bit of it is in the AV-99 unit, it looks like  
21 anyway.

22           LINDA K. WOODWARD: I cannot see how that's  
23 feasible. There are no way that could be feasible.

24

--

1           MARK SWARTZ: David, have you met with Otis Hess?

2           DAVID MILLER: We've had conversations with him on  
3 the telephone through a land broker.

4           MARK SWARTZ: Did you have a conversation with him  
5 about property lines?

6           DAVID MILLER: We had questions of him where there  
7 were some surveys of record and we had questions of him and  
8 showed him exhibit maps, asked him if his property was in the  
9 right location and he said it was, based on the land surveys  
10 that are recorded with his deed.

11          LINDA K. WOODWARD: The Otis Hess tract is our back  
12 yard. We played in it right beside my mother's home, my  
13 mother and father's home. So apparently that line from the  
14 unit must separate right at my mother's home.

15          BENNY WAMPLER: You've got the gentleman here that  
16 prepared the map. You can ask him a question. I don't know  
17 your mother's name to ask the right question.

18          LINDA K. WOODWARD: It would be under my father,  
19 James Coy Hess.

20          DAVID MILLER: Is that the house that Anna Motes  
21 used to have?

22          LINDA K. WOODWARD: Anna Motes still has.

23          DAVID MILLER: According to the record title, Eula  
24

1 Faye Blankenship.

2                   LINDA K. WOODWARD: No, Eula Faye Blankenship has  
3 the life estate.

4                   DAVID MILLER: But the house that she's talking  
5 about, the Nora and Oakwood line is almost---

6                   LINDA K. WOODWARD: Dead center.

7                   DAVID MILLER: ---just barely right below the  
8 house. It's running right through...it's running right  
9 through Otis' lot and right through the house lot she's  
10 talking about. So that's...you know, it's in...that piece of  
11 property is in both units by that line coming through it.  
12 Like I said, those properties she's talking about, James Coy  
13 Hess, he had...they had surveys, small surveys, that helped  
14 to get that property in.

15                   LINDA K. WOODWARD: It looks as if that survey that  
16 my father had was this survey right here. My father had that  
17 land lotted, each one of us got a small piece. But I was  
18 very interested (inaudible) mine, most of the Hess tract is  
19 in the Nora tract, right...the Oakwood tract. Otis's would  
20 have to be, mine would have to be. Then this Oakwood and the  
21 Nora tract would have to dead center my mother's home, my  
22 father's. If it touches it at all, it would have to be.

23                   DAVID MILLER: You can see on the map where the  
24

1 grid is coming through those two pieces of property. Like I  
2 said, Ms. Woodward's survey is right here. As you can tell,  
3 it doesn't actually join Otis's property, that particular  
4 Otis Hess tract. It joins Beulah Hess on the back, and I  
5 have a copy of Beulah's survey, also.

6           LINDA K. WOODWARD: I would like to express to the  
7 Board extremely, I'm not here for my tract of land. I'm not  
8 here...I'm here for the heirs of James Coy Hess. I'm here  
9 for the home place, and he very well sat there and said it  
10 touched that home. Somewhere that line dead centers that  
11 home. They can't have it both ways.

12           DAVID MILLER: It comes through just south of the  
13 house and we have a lease from those people, Otis Hess. All  
14 I could use to put on the map was the surveys of record.  
15 Here's the survey that's behind that, which you can see on  
16 the map is Beulah Hess.

17           LINDA K. WOODWARD: Then what I'm saying is Otis's  
18 would be in the Oakwood tract also, unit also, would it not  
19 be?

20           MARK SWARTZ: That's what this map shows, ma'am.

21           LINDA K. WOODWARD: That's right.

22           DAVID MILLER: That's what I said, Otis's.

23           LINDA K. WOODWARD: That's right, as well. But  
24

--

1 the home place is dead center.

2           DAVID MILLER: The home tract she's talking about  
3 is just barely in the lower grid. Most of it is in the  
4 Oakwood grid, as you see.

5           LINDA K. WOODWARD: How can you separate that gas  
6 when you're pumping it?

7           DAVID MILLER: That's what these field units are  
8 set up for, for this purpose.

9           LINDA K. WOODWARD: We were told by one of them  
10 that the Otis Hess tract was going to be used for a blow  
11 hole, whatever that is.

12           BENNY WAMPLER: We've got Otis Hess in 2A listed in  
13 this exhibit.

14           MARK SWARTZ: But we have a lease from him. He's  
15 not...we're not pooling him.

16           BENNY WAMPLER: I'm sorry?

17           MARK SWARTZ: We're not pooling him.

18           BENNY WAMPLER: I understand. You've asked for a  
19 split agreement.

20           MARK SWARTZ: Right.

21           DAVID MILLER: Like I said, Mr. Hess has seen this  
22 map and is in agreement.

23           LINDA K. WOODWARD: I'm not disputing that they  
24

1 don't have a lease. I know they do. What I'm dis...what I'm  
2 saying is mine and Otis' is in the Oakwood unit but the home  
3 place, Anna Motes, which is heirship, he read the deed  
4 September the 6th that my father excepted the coal, gas,  
5 everything off of it. He sat right there and said that it  
6 centered...cornered in, centered it, whatever he wants to  
7 say. But it centered that ...it took that home.

8           MARK SWARTZ: I remember that deed and it was not a  
9 reservation. I would dispute that the record indicates that  
10 he reserved the minerals.

11           LINDA K. WOODWARD: Would you like to see the deed?

12           MARK SWARTZ: I saw it last month, ma'am. I  
13 recall.

14           LINDA K. WOODWARD: When my father made my sister,  
15 Anna Motes, the deed, he excepted his lifetime satisfaction  
16 in it. He reserved the coal, gas, oil right of ways,  
17 easements, anything that pertained to it.

18           BENNY WAMPLER: You are aware that they didn't draw  
19 the Oakwood/Nora boundary line, the Board did that with field  
20 rules, right?

21           LINDA WOODWARD: Yes.

22           BENNY WAMPLER: I just wanted to make sure you  
23 didn't think they drew them.

24

--

1           LINDA K. WOODWARD: No. No, I was just under---.  
2 The way that I'm getting Mr. Swartz, if that's the way to  
3 pronounce his name is, that he thinks that I'm here strictly  
4 for my piece of property.  
5           BENNY WAMPLER: Well, don't worry about him.  
6           LINDA K. WOODWARD: That piece of property is just  
7 a legacy to me.  
8           BENNY WAMPLER: Don't worry about that.  
9           LINDA K. WOODWARD: But you hear it out of their  
10 own testimony, that that line centers that home.  
11           BENNY WAMPLER: Right, but what we want to do---.  
12           LINDA K. WOODWARD: I mean, you either got to be  
13 left, right or dead center. I mean, if the Nora field is  
14 there, then that is heirship.  
15           BENNY WAMPLER: Where is 2L?  
16           LINDA K. WOODWARD: We're not here to give them a  
17 hard time. Let's just reach a reasonable agreement.  
18           BENNY WAMPLER: We found it. We can't have them  
19 reach an agreement if your property is not in the grid.  
20           LINDA K. WOODWARD: I'm here strictly for the home  
21 place.  
22           SHARON PIGEON: Part of that is in the grid.  
23           LINDA K. WOODWARD: Yes.

24

--

1           SHARON PIGEON: Not all of it.

2           LINDA K. WOODWARD: Yes.

3           DAVID MILLER: That home place property is, by this  
4 deed, belongs to Eula Faye and Glenn Edmond Blankenship from  
5 Ms. Anna Motes.

6           LINDA K. WOODWARD: Would you read the back, the  
7 reserved?

8           MARK SWARTZ: It's not a reservation. I mean, we  
9 did this the last time. It says, "There is further excepted  
10 and reserved from this conveyance such coal, oil, gas,  
11 minerals, easements, privileges, rights of way as have  
12 heretofore been conveyed by previous owners." It's a  
13 protective language that says I'm not conveying something  
14 that's already been severed. It's not an affirmative  
15 reservation. That was the same language I read last month.  
16 I'm sorry, but you need to talk to a lawyer and see---.

17           LINDA K. WOODWARD: I did.

18           MARK SWARTZ: ---if...well, then you need to really  
19 bring this to his attention and ask him what it means because  
20 I don't think it means what you think it means. But even if  
21 it did, you know, we have---.

22           LINDA K. WOODWARD: I think my father---.

23           MARK SWARTZ: ---accounted for the tracts in the  
24



1 unit that we're here on and the title.

2           LINDA K. WOODWARD: I think my father put that in  
3 there just in case this right here every came up, just in  
4 case, to protect his own self and his kids.

5           JAMES McINTYRE: Do you have a copy of the original  
6 severance?

7           (Mark Swartz looks through his file.)

8           MARK SWARTZ: Hey, Scott, do you have the title  
9 file on that?

10          SCOTT HODGES: Are you looking at the Otis Hess  
11 tract?

12          MARK SWARTZ: I think so, yeah.

13          SCOTT HODGES: Are you looking for the---?

14          MARK SWARTZ: Well, actually we're looking at the  
15 Blankenship---?

16          SCOTT HODGES: Because it will be on a bunch of  
17 tracts.

18          MARK SWARTZ: Yeah, it's a big severance deed.

19          BENNY WAMPLER: Let's go off the record a few  
20 minutes and let them sort through.

21          (Off record.)

22          MARK SWARTZ: The principal severance deed was  
23 January of 1887, and was recorded at Deed Book A, 377. It  
24

1 was from Stinson to Frank Howard Tiller and we've got a title  
2 examination that David Altizer or somebody from his office  
3 prepared with regard to the Eula Blankenship tract which was  
4 part of that severance, was subject to that severance, and  
5 we've got the actual deed with us, severance deed with us, as  
6 well.

7 BENNY WAMPLER: That answer your question? Other  
8 questions from members of the Board? Your father's tract, or  
9 the heirship you're talking about, whose name was it in?

10 LINDA K. WOODWARD: The heirship, it would be in  
11 all of the kids. We have---.

12 BENNY WAMPLER: What was your father's name?

13 LINDA K. WOODWARD: James Coy Hess. I'm sure my  
14 father really didn't...my father could not read or write for  
15 just a few months before he died, then he learned to read.  
16 I'm sure he put that statement in that deed for precaution,  
17 without a doubt. I don't sit here today to claim to be a  
18 lawyer, but I'm sitting here today to tell you what is going  
19 on there on that small tract of land is wrong. If you need  
20 to omit anybody's, let it be mine. But you heard from their  
21 own mouth that it does involve the home place, both of you.

22 BENNY WAMPLER: Well, I'm going to go back and ask  
23 him that very question. Mr. Miller, you're under oath.

24

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1 You've looked at this and you've researched the titles.  
2 You've looked at the surveys. Is any of the property in  
3 question in AV-99?  
4 DAVID MILLER: The home place tract she's referring  
5 to was conveyed to Eula Faye Blankenship by Deed Book 555,  
6 Page 408, which is here.  
7 BENNY WAMPLER: And that's in the...that's in  
8 the---?  
9 DAVID MILLER: There's a small tip of it in AV-99.  
10 SHARON PIGEON: Tract L?  
11 DAVID MILLER: Ma'am?  
12 SHARON PIGEON: Is that tract L he's referring to,  
13 or 2L?  
14 BENNY WAMPLER: 2L we have in here, .02 acres?  
15 DAVID MILLER: Yes, ma'am, that's 2L.  
16 LINDA K. WOODWARD: Well, are you going with the  
17 new map or the Exhibit A-1?  
18 MARK SWARTZ: It's the same.  
19 BENNY WAMPLER: Are you disputing that the land is  
20 in Eula Faye Blankenship?  
21 LINDA K. WOODWARD: I say Eula Blankenship has a  
22 life estate. The land and the home belongs to Anna Motes.  
23 BENNY WAMPLER: But what they're saying is the deed  
24

1 of record shows Eula Faye Blankenship, which is in this  
2 unit---.

3 DAVID MILLER: Actually the deed of record...I  
4 should have made myself more clear, is Eula Faye Blankenship,  
5 et al. I think that's how her tract is listed.

6 BENNY WAMPLER: That's the way it's listed.

7 LINDA K. WOODWARD: Well, it states in their first  
8 ...in their first documents that Eula has a life estate in  
9 it.

10 DAVID MILLER: Eula Faye, a life estate was  
11 conveyed to her and that's what the et al is. It picks up  
12 the other people that are involved.

13 BENNY WAMPLER: So, what I'm trying to raise the  
14 point here is that apparently that small portion you're  
15 talking about where you're saying it splits through the land  
16 is included here as a....they represent that. I want you to  
17 understand that and what they're saying, the other portion of  
18 that land then would be in FF-14.

19 LINDA K. WOODWARD: I understand that.

20 BENNY WAMPLER: All right. So, do you still think  
21 that we have something incorrect in the prior exhibit?

22 LINDA K. WOODWARD: I think that it should be  
23 heirship, that clause, that's just the only thing I'd like to

24

--

1 know what you're going to do with is the clause that my  
2 father left in that deed? What is it, you are just going to  
3 ignore it or are you just---? I mean, I put...I put you  
4 where I knew it was at. I knew it was at that house.

5           SHARON PIGEON: Ma'am, I believe if you substitute  
6 previously for heretofore in the legal language that Mark  
7 read, that that will be clearer to you. Would you read it  
8 again, Mark, and put previously in there to see if that's  
9 clearer and see if you agree with it, as well?

10           MARK SWARTZ: It says, "There is further excepted  
11 and reserved from this conveyance such as the coal, oil, gas,  
12 minerals, et cetera, as have previously been conveyed by  
13 previous owners, if any." That's the way I read it.

14           SHARON PIGEON: Do you understand that it is  
15 referring to this document isn't reserving anything. It is  
16 saying whatever has previously been reserved is not being  
17 brought back in.

18           LINDA K. WOODWARD: Oh, I understand that. If the  
19 previous documents had excepted it all out, we wouldn't be  
20 here today.

21           SHARON PIGEON: And we don't have any other  
22 reservation that you're referring to, though. That's the one  
23 you're referring to.

24

--

1           LINDA K. WOODWARD: But we have proven here today  
2 that it is on the home place and it...it's fine with me if it  
3 goes to the two girls. I mean, that's fine with me. It  
4 doesn't matter to me. Just as long...I don't understand how  
5 they're going to split the line.

6           SHARON PIGEON: You understand they didn't draw the  
7 grid. That line was put in there by the grid field rules  
8 when that was made up. They didn't draw those.

9           LINDA K. WOODWARD: Oh, I understand that. But I'm  
10 sure when they pump that gas there, they're going to pump it  
11 all. It won't be just a small bit of it.

12           SHARON PIGEON: That's not the only property that  
13 will fall on the grid line.

14           LINDA K. WOODWARD: That's right.

15           BENNY WAMPLER: ...Exhibit A, your plat map showing  
16 the location of the well?

17           LESLIE K. ARRINGTON: Yes.

18           BENNY WAMPLER: You're in the drilling window...  
19 you're in the drilling window and you're, if anything, south  
20 of the center.

21           LESLIE K. ARRINGTON: Yes.

22           BENNY WAMPLER: And it's certainly substantially  
23 south of the property in question, as I would see here. Is  
24

1 that correct?

2 LESLIE K. ARRINGTON: Yes.

3 BENNY WAMPLER: In an attempt to address what you  
4 just raised, the Board has never tried to represent that  
5 having these grids that we drew up based on the testimony  
6 from petroleum engineers and geologist, et cetera, that there  
7 would be no way that gas could come from one grid to the  
8 other. It was the best method that we could come with to  
9 assure that everybody gets paid for gas off their property,  
10 the best ability that we had and technical minds that we had  
11 to come before this Board. So, while some gas could migrate  
12 into this, they do have a plan of development as you heard  
13 Mr. Arrington say to come into FF-14, which is where your  
14 property is and more...and more where the other property in  
15 question would be. I don't know if I'm helping you or not.

16 LINDA K. WOODWARD: Yeah, I understand.

17 BENNY WAMPLER: I'm just trying to give you  
18 information that we based these grids on. Because if we  
19 didn't have this grid pattern, we'd have a series of circles.  
20 That's the state...that's the statewide rules. With those  
21 you have large gaps where no one gets paid, okay, and that's  
22 why the Board went with the grid system that we did.

23 LINDA K. WOODWARD: Okay. I have another question.

24

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1 We have determined that my property and Otis' property is in  
2 the Oakwood unit. Is the Nora unit allowed to put...now, the  
3 reason I'm asking this is for the safety of my sister. Is  
4 the Nora unit allowed to put a blow hole, or whatever they  
5 call it, in the Oakwood?

6 BENNY WAMPLER: Mr. Arrington, would you describe  
7 what the...do you know what she's talking---?

8 LESLIE K. ARRINGTON: She's speaking to a blow hole.  
9 I don't know---.

10 LINDA K. WOODWARD: Are they allowed to use---?

11 LESLIE K. ARRINGTON: ---I don't know what is.

12 LINDA K. WOODWARD: ---the land? Let's just put it  
13 simple like that. Are they allowed to use the land in the  
14 Oakwood for the Nora---?

15 SHARON PIGEON: I have to interject here. That's  
16 not an accurate restatement of what we've got before us. The  
17 Otis Hess property is in both tracts. Now, whatever they may  
18 be putting on his property may or may not be in Oakwood. It  
19 could very easily be in the tract we're talking about since  
20 that is shown on the line. So, your broad statement is not  
21 accurate. Now, whatever else you want to ask, then go ahead.  
22 The Otis Hess property is clearly shown here as is the Eula  
23 F. Blankenship property in 2L is in both tracts...I mean,

24

--



1 both grids.

2                   BENNY WAMPLER: The location of any feature is going  
3 to have to be a permitting issue that Mr. Wilson would have  
4 included and that you would have rights as a surface owner to  
5 dispute that if it's on your surface, to try to...you know,  
6 without having any information about what you're talking  
7 about.

8

9                   LESLIE K. ARRINGTON

10                   DIRECT EXAMINATION RESUMES

11 QUESTIONS BY MR. SWARTZ:

12                   Q.       Mr. Arrington, you've got a proposed well  
13 location in FF-14, don't you?

14                   A.       Yes, I do.

15                   Q.       At the present time?

16                   A.       I do have.

17                   Q.       Okay. And is that to the very north of the  
18 drilling window?

19                   A.       It would be in the northern portion of FF-  
20 14, yes.

21                   Q.       Okay. And would that put it at least 500  
22 feet away, if not more, from the Larry Woodward property?

23                   A.       Yes, it would.

24

--

1           Q.       Okay. And where is the gathering line from  
2 the proposed FF-14 well that you've been talking about going  
3 to go. Is it going to north out of the unit or south?  
4           A.       It will go to the north.  
5           Q.       Connect with the well in EE-14?  
6           A.       That's correct. At this time that is just a  
7 plan.  
8           Q.       I understand. But wouldn't...wouldn't you  
9 have an incentive to make a plan that would not require you  
10 to be on Ms. Woodward's property?  
11          A.       Yes, it would.  
12          Q.       Okay. And is it your intention to pursue a  
13 plan that wouldn't require you to cross her property?  
14          A.       Yes.  
15          Q.       Okay.  
16          LINDA K. WOODWARD: It's your decision.  
17          BENNY WAMPLER: We're just trying to follow. We're  
18 here to make sure we get some questions answered.  
19          LINDA K. WOODWARD: There's just...there's just no  
20 way that that home place and Otis' property...what you'uns  
21 are saying is on the map. It's just not feasible what  
22 they're saying. But we will go by your decision. I mean,  
23 that's what...that's all we can do is here. The Otis Hess  
24

--

1 property was the playground I grew up on. It's just not...in  
2 my own personal opinion, it's just the way to steal the gas.

3 BENNY WAMPLER: I don't think I'm going to change  
4 your mind on that.

5 LINDA K. WOODWARD: You have to...like I told you,  
6 you have to see the property to know what I'm talking about.  
7 Like my lawyer told me the other day, back in 1850s it was  
8 horses and guns. Today it's lawyers and pencils and maps,  
9 the same difference.

10 BENNY WAMPLER: Well, you know, just...just to be  
11 clear for you, I think what we're talking about here, and I'm  
12 not speaking for the Board at all with this statement, but it  
13 sounds to me like you've got a civil matter. If, in fact,  
14 you get an attorney and you have...are able to dispute these  
15 records, that's a civil matter not before this Board.

16 LINDA K. WOODWARD: I wouldn't...well, I'm just  
17 saying what CNX put on today was a show. The map, and like I  
18 said, it's done with a pencil. If you could only see the  
19 property that I was telling you, it's not even feasible what  
20 they're saying. But we have to go by the Board's decision  
21 and that's exactly what we will do.

22 BENNY WAMPLER: Any other questions from members of  
23 the Board or comments?

24

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1                   (No audible response.)

2                   BENNY WAMPLER: Do you have anything further, Mr.

3 Swartz?

4                   MARK SWARTZ: No.

5                   BENNY WAMPLER: Is there a motion?

6                   MASON BRENT: Mr. Chairman, I move that we grant the

7 application as submitted.

8                   BENNY WAMPLER: Is there a second?

9                   DONALD RATLIFF: Second.

10                  BENNY WAMPLER: Any further discussion?

11                  KENNETH MITCHELL: One more thing, Mr. Chairman,

12 real quick.

13                  BENNY WAMPLER: Mr. Mitchell.

14                  KENNETH MITCHELL: I'm deeply saddened that a

15 meeting wasn't held. I requested a meeting. Not that my say

16 means anything because I was appointed by the Governor

17 strictly to be a citizen appointee. But I do feel that the

18 last hour that we spent here could have been spent in that

19 meeting and maybe would have saved a lot of you a trip and

20 maybe would have saved a lot of questions that were asked

21 today. I'm...I wish this map would have been given to these

22 people way in advance. I wish the questions could have been

23 answered way in advance. I think it was a waste of our time.

24

1 But now...but now in saying that, I'm here from 9:00 until  
2 5:00 o'clock. I'm good any day from 9:00 to 5:00 o'clock.  
3 If needed after 5:00, I'll be here after 5:00, too. But, I  
4 do believe that this...the last hour could have been resolved  
5 in a courthouse in a meeting, pulling the deeds and making  
6 this a lot simpler for us. I think...I think it was a waste  
7 of our time. I think...I think Mr. Swartz and staff should  
8 have called a meeting. I've sat in hundreds of meeting...I  
9 spent eight years on my county board in my county. Eight  
10 years as a county supervisor. I spent five years on this  
11 Board and I never left a meeting where something wasn't  
12 positive. There wasn't something that came from that. So,  
13 all I'm going to say is problems can be solved up front and  
14 save a lot of people a lot of...a lot of time. So, I...I  
15 personally will not support this and I'm not voting against  
16 the people that are in this tract. I'm voting against a  
17 issue I really believe that communications were not here.  
18 They were not done correctly. That's just me personally. It  
19 has nothing to do with the Board. That's just me personally.

20 LINDA K. WOODWARD: I asked the lawyer friend of  
21 mine the other day when I took this letter to him, if this  
22 had been ordered in a Court of law that a meeting be held and  
23 then wasn't held and no notification of this hearing had been  
24

1 sent, what would that Judge have done? That Judge would have  
2 demanded respect. They would have been held in contempt of  
3 Court and somebody would have went to jail. But what they  
4 did, I also asked my lawyer, will they ever be a day that  
5 anybody stands up to protect the poor people now? This is  
6 2003. His answer to me is, "I don't think so." I want to be  
7 able to vote again. I want to be able to fly my flag again.  
8 But when I leave this courtroom today, it's not in me to do  
9 that. But I do think you're right.

10 BENNY WAMPLER: Ms. Woodward, I do want to say one  
11 thing and remind you that in the September hearing the Board  
12 continued the hearing to today. So, you were on notice.  
13 There was no...there was no...and it was published.

14 LINDA K. WOODWARD: It was given as October, but no  
15 date was given to us. This lady sitting over here with the  
16 long hair, she told us plainly when she took the Hesses heirs  
17 name and phone number that she personally would let us know  
18 the date and time of this hearing. It was after lunch  
19 yesterday before we knew about this and the man wouldn't give  
20 his name.

21 BENNY WAMPLER: For future references, the Board  
22 meets every third Tuesday. It's always published, you know,  
23 in the paper. It's in the Town Hall...the Virginia

24

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1 registered Town Hall. It's always at 9:00 o'clock on the  
2 third Tuesday unless we excepted and that's rare. We hardly  
3 ever do that. But I...I just wanted you to know we did  
4 continue it last month to the October...October hearing. Not  
5 being the...I agree with what was said. I mean, certainly  
6 ...I think every Board member here does. We're not pleased  
7 that meeting didn't take place. We're not pleased when  
8 people raise their voices at hearings that make citizens feel  
9 like that they shouldn't...that they should have a lawyer  
10 with them. This---.

11 LINDA K. WOODWARD: I really thought that in the  
12 beginning that a lawyer would be nice. Then I got the yellow  
13 pages to try to find a lawyer to defend you in minerals.  
14 Don't try. When I asked the lawyers, are they all company  
15 lawyers? The lady wouldn't even ask me. I hope in my  
16 lifetime that I will be able to see somebody to stand and  
17 defend the poor people. I'd like to be able to stand and do  
18 that. But someday that will happen. Thank you. You are  
19 right.

20 BENNY WAMPLER: Okay, we have a motion and a second.  
21 Any further discussion?

22 (No audible response.)

23 BENNY WAMPLER: All in favor, signify by saying yes  
24

1 (All Board members indicate in the affirmative, but  
2 Kenneth Mitchell.)

3 KENNETH MITCHELL: No.

4 BENNY WAMPLER: We have one no. Thank you. Motion  
5 carries. We'll take a ten minute recess and then let  
6 Equitable get set up.

7 (Off record.)

8 BENNY WAMPLER: I'll ask you to come to order,  
9 please. The next item on the agenda is a petition from CNX  
10 Gas Company, LLC for pooling of a coalbed methane unit BC-  
11 107. This is docket number VGOB-03-01...I'm sorry, -1021-  
12 1202. We'd ask the parties that wish to address the Board in  
13 this matter to come forward at this time.

14 MARK SWARTZ: Mark Swartz and Les Arrington.

15 BENNY WAMPLER: Ma'am, did you wish to address the  
16 Board in this item number seven?

17 VIRGINIA J. BALL: Yes.

18 BENNY WAMPLER: Would you state your name for the  
19 record?

20 VIRGINIA J. BALL: Virginia J. Ball.

21 BENNY WAMPLER: Can you hear her?

22 COURT REPORTER: (Indicates affirmatively.)

23 BENNY WAMPLER: Mr. Swartz, you may proceed.

24

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1

2

LESLIE K. ARRINGTON

3

DIRECT EXAMINATION

4 QUESTIONS BY MR. SWARTZ:

5 Q. Les, you're still under oath. Do you  
6 remember that?

7 A. Yes.

8 Q. Okay. State your name, please.

9 A. Leslie K. Arrington.

10 Q. Who do you work for?

11 A. CNX Gas.

12 Q. What do you do for them?

13 A. I'm a manager of environmental and  
14 permitting.

15 Q. Did you either prepare, or cause to be  
16 prepared under your supervision, the notice of hearing,  
17 application and the related exhibits with regard to this  
18 pooling petition BC-107?

19 A. Yes, I did.

20 Q. Who's the applicant?

21 A. CNX Gas.

22 Q. And is CNX Gas Company a limited liability  
23 company?

24

--

1           A.       Yes, it is.

2           Q.       Is it a wholly owned indirect subsidiary of  
3 Consol Energy, Inc.?

4           A.       Yes, it is.

5           Q.       Is CNX authorized to do business in the  
6 Commonwealth?

7           A.       Yes.

8           Q.       Who is the applicant requesting be appointed  
9 designated operator if the application is approved?

10          A.       CNX Gas.

11          Q.       Is CNX Gas registered with the DMME?

12          A.       Yes.

13          Q.       And does it have a blanket bond file?

14          A.       Yes.

15          Q.       Have you listed the folks that you're  
16 seeking to pool in both the notice of hearing and Exhibit B-  
17 3?

18          A.       Yes, we have.

19          Q.       Do you wish to add anybody or subtract  
20 anybody today?

21          A.       No.

22          Q.       What did you do to notify the people that  
23 you're seeking to pool of the hearing today?

24

1           A.       We published in the Bluefield Daily  
2 Telegraph on September the 24th, 2003, and we mailed on  
3 September the 19th of 2003 by certified mail return receipt.

4           Q.       Okay. And when you published, did you  
5 publish both the notice and the little map that would  
6 accompany it?

7           A.       Yes, we did.

8           Q.       Okay. Would you turn to Exhibit A, page  
9 two, and tell the Board what interest you've acquired in this  
10 unit and what interest you're seeking to pool?

11          A.       Yes, we have 99.1147% of the coal leased and  
12 99.1147% of the coal owner and oil and gas owners' claim to  
13 coalbed methane leased. We're seeking to pool 0.8853% of the  
14 oil, gas and coal owners' claim to coalbed methane.

15          Q.       So, you're seeking to pool less than one  
16 percent of both sides of the claims, the coal and the oil and  
17 gas?

18          A.       That's correct.

19          Q.       For the folks, the 99% of the people that  
20 you've been able to lease, what are the lease terms that  
21 generally you've been offering to them?

22          A.       For a coalbed methane, it's a dollar per  
23 acre per year, with a five year paid up term and a one-eighth

24

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1 production royalty.

2 Q. This is a Middle Ridge unit, correct?

3 A. Yes, sir.

4 Q. 58.74 acres?

5 A. Yes, it is.

6 Q. And you're proposing one well?

7 A. Yes.

8 Q. And is that well shown on the plat and is it  
9 located within the drilling window?

10 A. Yes, it is.

11 Q. Since this is a Middle Ridge unit, we would  
12 be talking about producing coalbed methane from the Jawbone,  
13 if that's below drainage, on down?

14 A. Yes, sir.

15 Q. What is your estimate with regard to the  
16 cost of this well?

17 A. The estimated cost is \$232,715.22. The  
18 permit number is 5907, drilled to an estimated depth of 2,435  
19 feet.

20 Q. Okay. There is a requirement or a need to  
21 escrow because of an unknown address in Tract 13, is that  
22 correct?

23 A. Yes.

24

--

1                   Q.       Okay. And then there is...you filed an  
2 Exhibit E with regard to escrowing for conflicts and the only  
3 tract where there are conflicts is Tract 3?

4                   A.       Yes.

5                   Q.       And also with regard to Tract 3 there are  
6 some unresolved title issues?

7                   A.       Yes, it is.

8                   Q.       And you're indicating an or there to show  
9 that there is an resolved title issue?

10                  A.       We have.

11                  Q.       Okay. So, escrow would be required for the  
12 unknown in Tract 13 and the conflicts and title issue in  
13 Tract 3?

14                  A.       That's correct.

15                  Q.       Is it your opinion that the plan of  
16 development, which is to drill one coalbed methane well at  
17 the location shown on the plat here, is a reasonable plan to  
18 develop the coalbed methane from under and within unit BC-  
19 107?

20                  A.       Yes, it is.

21                  Q.       And if you couple your leasing efforts and  
22 acquisition efforts with the pooling order here, would that  
23 serve to protect the correlative rights of all owners and  
24

--

1 claimants in this unit?

2 A. Yes, it will.

3 MARK SWARTZ: That's all I have.

4 BENNY WAMPLER: Questions from members of the Board?

5 (No audible response.)

6 BENNY WAMPLER: Ma'am, do you have questions?

7 VIRGINIA J. BALL: I would just like to know why

8 that the heirs of this particular claim wasn't notified

9 except in the paper?

10 LESLIE K. ARRINGTON: What claim?

11 VIRGINIA J. BALL: This claim 107. The one that

12 we're here discussing.

13 LESLIE K. ARRINGTON: Yes, ma'am. Are you speaking

14 maybe to the William Reebus?

15 VIRGINIA J. BALL: No, are we doing...are we doing

16 BC-107?

17 LESLIE K. ARRINGTON: Yes, ma'am. First of all, I'm

18 not sure what tract number you'll be in. Can you--?

19 VIRGINIA J. BALL: I can't tell you what tract

20 number I'm in.

21 LESLIE K. ARRINGTON: Okay. Let me go back to

22 the---.

23 (Mark Swartz and Leslie K. Arrington confer.)

24

1           BENNY WAMPLER: Are you in the David Ball tract?  
2           VIRGINIA J. BALL: No, sir.  
3           BENNY WAMPLER: Okay.  
4           LESLIE K. ARRINGTON: The only thing I see...the  
5 only names that were published was the Gent Group and William  
6 Reebus. That's what would have been published. So, if you  
7 could tell me which one of those that you're speaking to.  
8           VIRGINIA J. BALL: I'm not addressing either one of  
9 those. That's not my...that's not my party.  
10          LESLIE K. ARRINGTON: Okay.  
11          VIRGINIA J. BALL: I'm just...I am just an heir.  
12          LESLIE K. ARRINGTON: Yes, ma'am. Of?  
13          VIRGINIA J. BALL: The Thompson heirs. My mineral  
14 rights have not been sold, coal or gas, oil or whatever.  
15          MARK SWARTZ: This would be the Emory Thompson  
16 heirs?  
17          VIRGINIA J. BALL: Yes.  
18          MARK SWARTZ: My information is it's not in this  
19 unit.  
20          VIRGINIA J. BALL: It's not in this unit?  
21          MARK SWARTZ: Correct. Is it close by or...why  
22 don't, Scott.....?  
23          BENNY WAMPLER: Let's..let's swear him in.

24

--

1           MARK SWARTZ: Do you want to state your name?

2           SCOTT HODGES: Scott Hodges.

3           (Witness is duly sworn.)

4

5                           SCOTT HODGES

6 having been duly sworn, was examined and testified as

7 follows:

8                           DIRECT EXAMINATION

9   QUESTIONS BY MR. SWARTZ:

10           Q.       Would you state your name, again?

11           A.       Scott Hodges.

12           Q.       Who do you work?

13           A.       CNX Land Resources.

14           Q.       What do you do for them?

15           A.       I'm a landman.

16           Q.       Are you familiar with the...was it Emory  
17 Thompson heirs?

18           A.       Emory Thompson heirs' property.

19           Q.       Okay. Let me show you the plat with regard  
20 to the unit we're talking about, BC-107, and if you could  
21 indicate to Virginia Ball where her property might be in  
22 relation to this. If you could just give her just some feel  
23 for that or use another map.

24

--



1           A.       Well, can I use a piece of paper?

2           Q.       Sure.

3           A.       That would be the easiest way to do this.

4   Where this is at, it's kind of like sitting right here. This

5   is this unit and it's...the Emory Thompson...talking about

6   the 509 and a half acres, it kind of looks like this, the

7   piece of property does. It's kind of shaped like that. It

8   is...there is like two units between it and here where this

9   is at.

10           VIRGINIA J. BALL: Is that two miles?

11          A.       No. No, it's not that far.

12          Q.       3,600 feet.

13           VIRGINIA J. BALL: 36---.

14          A.       Yeah. It's not a long way. But it's a

15   couple of units over where it's involved in. The only units

16   that we've had before the Board that have involved the

17   property where BD-113, it's right here. It gets on this

18   piece of it and there are probably two or three that come up

19   next month that are going to involve...that will involve you

20   all, and you may have already gotten...or you're about to get

21   notices on those.

22           BENNY WAMPLER: Show her on that what unit.

23          A.       Right here. Right here is the 113 unit.

24

1 This is...it gets up in it and dips like this. That property  
2 kind of comes around this. Well, it's more than two units.  
3 There's about three units before you hit it. We're right  
4 over in here is where we're at, kind of. We're right here  
5 doing this one. So, you're like that is the difference in  
6 them.

7 VIRGINIA J. BALL: And where in this is Big A  
8 Mountain?

9 A. Big A is down in here. Down in this part.  
10 This is...this is Hess Creek running here. Here's Fuller  
11 Mountain.

12 BENNY WAMPLER: Let's go off the record for a minute  
13 and let them have a discussion.

14 (Off record.)

15 BENNY WAMPLER: Did you have anything further, Mr.  
16 Swartz?

17 MARK SWARTZ: No.

18 BENNY WAMPLER: Questions from members of the Board?

19 (No audible response.)

20 BENNY WAMPLER: Is there a motion?

21 DONALD RATLIFF: So moved, Mr. Chairman?

22 BENNY WAMPLER: Motion for approval.

23 MASON BRENT: Second.

24

--

1           BENNY WAMPLER: Second. Any further discussion?  
2           (No audible response.)  
3           BENNY WAMPLER: All in favor, signify by saying yes.  
4           (All Board members indicate in the affirmative.)  
5           BENNY WAMPLER: Opposed, say no.  
6           (No audible response.)  
7           BENNY WAMPLER: You have approval. I believe you  
8 said you had some housekeeping, Mr. Swartz. You requested  
9 that we combine items eight, ten, eleven, twelve, thirteen,  
10 fourteen and fifteen.  
11          MARK SWARTZ: Correct.  
12          BENNY WAMPLER: I'll call those docket numbers.  
13 They are VGOB...this for units pooling of a coalbed methane  
14 unit EE-39, VGOB-03-1021-1203; unit EE-37, VGOB-03-1021-1205;  
15 FF-37, docket VGOB-03-1021-1206; FF-38, docket number VGOB-  
16 03-1021-1207; FF-39, docket number VGOB-03-1021-1208; Y-1,  
17 docket number VGOB-03-1021-1209; Z-22, docket number VGOB-03-  
18 1021-1210. We'd ask the parties that wish to address the  
19 board in these matters to come forward at this time.  
20          MARK SWARTZ: Mark Swartz and Les Arrington.  
21          BENNY WAMPLER: Is there any others? If you will,  
22 come down and state your name for the record, please.  
23          MASON BRENT: While they're doing that, may I ask  
24

1 him one question?

2 BENNY WAMPLER: Yes. When you used to combine a  
3 group of them like this, seven of them, you used to give us a  
4 nice summary sheet that had a lot of the...a lot of the most  
5 important points on it. Do you have one of those today?

6 LESLIE K. ARRINGTON: No.

7 MARK SWARTZ: No, we don't. We...we probably need  
8 to do that again.

9 LESLIE K. ARRINGTON: Well, actually, we've just  
10 started again in our office. We do finally have folks that I  
11 can put on that. So, we will have that.

12 BENNY WAMPLER: That does help, I agree.

13 MASON BRENT: Are you saying you finally have  
14 competent people working for you? Is that what you're  
15 saying?

16 MARK SWARTZ: I think it's more people.

17 LESLIE K. ARRINGTON: More people.

18 MARK SWARTZ: More of the same, yeah.

19 LESLIE K. ARRINGTON: More.

20 BENNY WAMPLER: Come over here and sit. Sir, if  
21 you'd like come over here and sit. We've kicked Anita out  
22 anyway. If you will...let's see, if you will turn that mike  
23 a little more toward him.

24

--

1                   MARK SWARTZ: Sure.

2                   BENNY WAMPLER: If you will, state your names for  
3 the record, please.

4                   RUSSELL SHORT: Russell Short and my wife, Linda  
5 Short.

6                   RAYMOND EDWARD SHELTON: Raymond Edward Shelton.

7                   CHARLES BOYD: Charles Boyd.

8                   BENNY WAMPLER: Thank you. Mr. Swartz, you may  
9 proceed. What we'll do is he proceeds and as he calls his  
10 witness and puts on the information, you'll each have the  
11 opportunity to ask questions of the witness or questions of  
12 the Board.

13

14                                   LESLIE K. ARRINGTON

15                                   DIRECT EXAMINATION

16 QUESTIONS BY MR. SWARTZ:

17                   Q.       Les, you need to state your name, again.

18                   A.       Leslie K. Arrington.

19                   Q.       I'll remind you that you're still under  
20 oath. Do you understand that?

21                   A.       Yes.

22                   Q.       Who do you work for?

23                   A.       CNX Gas.

24

--

1 Q. What do you do for them?

2 A. I'm manager of environmental and permitting.

3 Q. Were you...did you either draft the notices

4 of hearing, applications and exhibits or cause them to be

5 prepared under your supervision?

6 A. Yes, I did.

7 Q. And did you sign...yourself sign the notices

8 of hearing and the applications with regard to this

9 collection of Oakwood units?

10 A. Yes, I did.

11 Q. All of this units that we've combined for

12 hearing today are, in fact, Oakwood units, are they not?

13 A. Yes, they are.

14 Q. Okay. And that would involve developing

15 coalbed methane from the Tiller on down?

16 A. Yes.

17 Q. And all of these units propose a frac well?

18 A. Yes.

19 Q. And all of these units propose one well and

20 in every instance that well is located in the drilling

21 window, is that correct?

22 A. That's correct.

23 Q. Who's the applicant?

24

1                   A.       CNX Gas.

2                   Q.       And is CNX Gas Company a Virginia General  
3 Partnership?

4                   A.       Yes, it is.

5                   Q.       And is it a wholly owned indirect subsidiary  
6 of Consol Energy?

7                   A.       Yes, it is.

8                   Q.       Is it authorized to do business in the  
9 Commonwealth?

10                  A.       Yes.

11                  Q.       And who is it that you're requesting act as  
12 designated operator of these units if they are approved?

13                  A.       CNX Gas.

14                  Q.       And has CNX Gas registered with the  
15 Department of Mines, Minerals and Energy and does it have a  
16 blanket bond on file?

17                  A.       Yes, it does.

18                  Q.       Have you listed the folks that you're  
19 seeking to pool in the notice of hearing section where it  
20 says two, and have you also listed the folks you're seeking  
21 to pool in Exhibit B-3, which should be an exhibit in each  
22 one of these?

23                  A.       Yes, we have.

24

1                   Q.       Okay. Do you want to add anybody today or  
2 do you want...or do you want to dismiss anybody from any of  
3 these proceedings?

4                   A.       As we go through individually, but I don't  
5 think so. I want to make sure as we go through.

6                   Q.       Okay, at least at this point you don't have  
7 anybody in mind and you'll let us know as we go through them?

8                   A.       That's correct.

9                   Q.       Okay. Now, you obviously have...as we go  
10 through here, we'll see that you've leased a number of people  
11 in every one of these units, is that correct?

12                  A.       Yes, we have...yes, we have.

13                  Q.       What are the terms of that you've offered  
14 and we continue to offer to lease interest in these units?

15                  A.       Our standard coalbed methane lease is a  
16 dollar per acre per year, with a five year paid up term and a  
17 one-eighth production royalty payment.

18                  Q.       And what did you do, if anything, to notify  
19 the folks that you're seeking to pool of the hearing today?

20                  A.       Yes. We published each one of them and we  
21 mailed each one by certified mail, return receipt requested.

22 For EE-39, we published in the Bluefield Daily Telegraph on  
23 September the 27th of 2003 and it was mailed on September the

24

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1 19th of 2003. On FF-37, it was published in the Bluefield  
2 Daily Telegraph September the 27th of 2003 and mailed by  
3 certified mail September 19 of 2003. EE-37, published in the  
4 Bluefield Daily Telegraph on September the 26th of 2003 and  
5 mailed September the 19th, 2003. FF-38, published in the  
6 Bluefield Daily Telegraph September 29, 2003 and mailed  
7 September 19, 2003. FF-39, published in the Bluefield Daily  
8 Telegraph September 29, 2003 and mailed September 19, 2003.  
9 Y-1, published October the 1st, 2003 in the Bluefield Daily  
10 Telegraph and mailed September 19, 2003. Z-22, published  
11 October the 1st, 2003 and mailed September the 19th, 2003.

12 Q. Let's take...let's start with EE-39 and work  
13 through some of the specific information. What's the cost  
14 estimate here?

15 A. \$239,385.39. Permit number is 45..4765.  
16 Drilled to a depth of 2,357 feet.

17 Q. I think in your Exhibit C it was 256. Is it  
18 drilled now and you've got a TD?

19 A. Yes, it is. Yes.

20 Q. So, the 2357 is the total depth?

21 A. The TD...TD depth, yes.

22 Q. With regard to EE-39, would you tell the  
23 Board what interest you have acquired and what it is you're  
24

1 seeking to pool?

2           A.       Yes. We have 100% of the coal leased  
3 beneath this unit. 100% of the coal owners' claim to coalbed  
4 methane. 99.4847...4875% of the oil and gas owners' claim to  
5 coalbed methane. We're seeking to pool 0.5125% of the oil  
6 and gas owners' claim to coalbed methane.

7           Q.       And in this particular unit, again EE-39,  
8 there's an escrow requirement, but it's only for con...  
9 conflicts or conflicting claims and it would apply to Tracts  
10 2A, 2B, 3A and 3B, is that correct?

11          A.       That's correct.

12          Q.       Turning to...what's the next one that you've  
13 got?

14          A.       FF-37.

15          Q.       Okay. FF-37, what's your well cost  
16 estimate?

17          A.       Estimated cost is \$236,928.05 to an  
18 estimated depth of 2285.

19          Q.       Do you have a permit yet on this one?

20          A.       No.

21          Q.       Okay. And this is...this is one of the  
22 makeup units. It's not 80 acres as was the first one, but  
23 it's 89.58 acres, correct?

24

--

1                   A.       Correct.

2                   Q.       What are the interest you've acquired and  
3 what is it that you're seeking to pool here?

4                   A.       We have a 100% of the coal leased beneath  
5 this unit. A 100% of the coal owners' claim to coalbed  
6 methane. We have 40.6899% of the oil and gas owners' claim  
7 to coalbed methane. We're seeking to pool 59.3101% of the  
8 oil and gas owners' claim to coalbed methane.

9                   Q.       Okay. And there is a requirement of escrow  
10 here because of conflicting claims, is that correct?

11                  A.       Yes, it is.

12                  Q.       And that would apply to Tracts 1B, 1C, 1D,  
13 2A, 2B, 2C, 2D, 2E and 2F, right?

14                  A.       That's correct.

15                  Q.       And if somebody wanted to check what the  
16 escrow requirements were, there's actually an Exhibit E in  
17 here which lists all those tracts?

18                  A.       It is.

19                  Q.       Okay. And there's an Exhibit EE that has  
20 been filed here?

21                  A.       Yes, it is.

22                  Q.       And that would reflect that at least in two  
23 tracts, 1A and 2G, some of the folks, conflicting claimants,  
24

1 have resolved their claims, entered into a royalty split  
2 agreement and to the extent those people are listed in Tracts  
3 1A and 2G, you would request that the Board not require you  
4 to escrow their funds?

5 A. That's correct.

6 Q. EE-37---?

7 A. Yes.

8 Q. ---what is your well cost estimate?

9 A. \$239,977.46. Permit number is 4690, drilled  
10 to a depth of 2,383 feet. It is an Oakwood 80 acres.

11 Q. Okay, it's an even 80?

12 A. Yes.

13 Q. What have you acquired in this unit and what  
14 are you seeking to pool?

15 A. We have acquired a 100% of the coal leased.  
16 We have a 100% of the coal leased beneath this unit. A 100%  
17 of the coal owners' claim to coalbed methane. 90.4250% of  
18 the oil and gas owners' claim to coalbed methane. We're  
19 seeking to pool 9.575% of the oil and gas owners' claim to  
20 coalbed methane.

21 Q. And here there's a requirement in Tract 1H  
22 for escrow because of an unknown address, correct?

23 A. And title conflict.

24

--

1           Q.       And there's also a title issue, which goes  
2 more to sort of a conflict situation?

3           A.       Yes.

4           Q.       There's a title issue that would require  
5 escrow in 1H as well. Escrowing just for conflicts, we would  
6 require escrow for Tracts 1A, 1C, 1D, 1E, 1F, 1G and 1H,  
7 again?

8           A.       Yes.

9           Q.       There's...an Exhibit EE has been filed  
10 indicating that at least with regard to one tract there has  
11 been some split agreements. That's Tract 1B, correct?

12          A.       That's correct.

13          Q.       And to the extent that there are folks  
14 listed in 1B, you are requesting the Board's authority to pay  
15 those people directly in accordance with their agreements?

16          A.       Yes, we are.

17          Q.       With regard to FF-38, what's your well cost  
18 estimate?

19          A.       \$238,043.54. Drilled to a depth of 2,322  
20 feet. The permit number is 4744. This unit---.

21          Q.       Is it 4474?

22          A.       I've probably got it right here. 4474, yes.

23          Q.       Okay.

24

--

1           BENNY WAMPLER: Also, your total depth actually is  
2 different than what you certified---?

3           A.       Yes, this is the drilled depth.   Yes, sir.

4           BENNY WAMPLER: 2322.

5           A.       2322, yes.   This is an Oakwood 89.37 acre  
6 unit.

7           Q.       Okay.   What...what are the interests that  
8 you've acquired here?

9           A.       We have a 100% of the coal leased beneath  
10 this unit.   A 100% of the coal owners' claim to coalbed  
11 methane.   We have 67.1169% of the oil and gas owners' claim  
12 to coalbed methane.   We're seeking to pool 32.8831% of the  
13 oil and gas owners' claim to coalbed methane.

14          Q.       And you've got an escrow requirement for an  
15 address unknown in Tract 1B?

16          A.       That's correct.

17          Q.       And then escrow with regard to conflicts for  
18 Tracts 1A, 1B, 1C, 1D, 2A, 2B, 2E, 2F, 2G, 2H, 2I, 2J and 2K,  
19 is that correct?

20          A.       That's correct.

21          Q.       And, again, there are some folks with split  
22 agreements that they are listed in Exhibit EE?

23          A.       Correct.

24

--

1 Q. And those split agreements pertain to Tracts  
2 2C and 2D, is that correct?

3 A. Correct.

4 Q. And are you requesting that the Board allow  
5 the designated operator pay those people have split  
6 agreements directly?

7 A. Yes, we are.

8 Q. With regard to FF-39, this is another 89.51  
9 acre Oakwood unit?

10 A. Yes, it is.

11 Q. What's your well cost estimate?

12 A. \$247,446.37. Drilled to a depth of 2,355  
13 feet. The permit number is 4962.

14 Q. What are the interests you've acquired and  
15 what are you seeking to pool?

16 A. The interest we've acquired is 100% of the  
17 coal is leased beneath this unit. A 100% of the coal owners'  
18 claim to coalbed methane. 80.9724% of the oil and gas  
19 owners' is leased. We're seeking to pool 19.0276% of the oil  
20 and gas owners' claim to coalbed methane.

21 Q. Okay, now escrow would be required for  
22 conflicts here?

23 A. Yes, it would.

24

1 Q. And that would be in Tracts 1A, 1B, 1C, 1D,  
2 1E, 1G, 1H, 1I, 2A, 2B and 2C, is that correct?  
3 A. Correct.  
4 Q. And then folks have entered into split  
5 agreements in Tracts 1F and 1J?  
6 A. That's correct.  
7 Q. And are you requesting that the Board allow  
8 you to pay them directly in...pay the people listed in  
9 EE...Exhibit EE directly in accordance with their split  
10 agreements?  
11 A. Yes, I would.  
12 Q. With regard to unit Y-1, what's your...this  
13 is an 80 acre?  
14 A. Yes, it is.  
15 Q. What's your well cost estimate?  
16 A. \$245,449.47. Drilled to a total depth of  
17 2,665 feet. Permit number is 5503.  
18 Q. And what have you acquired in this unit and  
19 what...what are you seeking to pool?  
20 A. We have leased 98.2988% of the coal beneath  
21 this unit. We're seeking...we have 98.2988% of the coal, oil  
22 and gas owners' claim to coalbed methane leased. We're  
23 seeking to pool 1.7012% of the coal, oil and gas owners'  
24



1 claim to coalbed methane.

2 Q. And we've got one escrow requirement because  
3 of an unknown address in Tract 3, is that correct?

4 A. That's correct, we do.

5 Q. With regard to the last of these Oakwood  
6 units, Z-22, this is an 80 acre?

7 A. Yes, it is.

8 Q. Okay. What's your well estimate, cost  
9 estimate?

10 A. \$232,130.60. Drilled to a depth of 2219.  
11 Permit number is 5804.

12 Q. Is that 2219 a TD?

13 A. Yes, it is.

14 Q. And the permit was what, 5804?

15 A. 5804.

16 Q. What have you leased in this unit or  
17 acquired, and what are you seeking to pool?

18 A. We have leased a 100% of the coal beneath  
19 this unit, a 100% of the coal owners' claim to coalbed  
20 methane, 94.7250% of the oil and gas owners' claim to  
21 coalbed methane. We're seeking to pool 5.2750% of oil and  
22 gas owners' claim to coalbed methane.

23 BENNY WAMPLER: What is this unit?

24

--

1           A.       This is unit Z-22.

2           Q.       Have you done a little more leasing here?

3           A.       Yes, we have.

4           Q.       Is that why that number is different?

5           A.       Yes, it is.

6           Q.       Okay.

7           A.       And...did you submit the exhibits to this

8 one? We submitted revised exhibits to Mr. Eide and Sharon,

9 I'm sorry.

10          Q.       So, there is an Exhibit B-2 that we've

11 submitted?

12          A.       Yes, sir, there is.

13          Q.       Which indicates some further leasing as

14 reason for dismissal?

15          A.       We purchased additional interest.

16          Q.       So, you have...the reason that the amount or

17 the percentage that you're proposing to pool has gone down?

18          A.       Yes.

19          Q.       Was it a purchase?

20          A.       Yes, it was.

21          Q.       And who did you purchase from?

22          A.       Apparently it was a Larry Blankenship.

23          Q.       And so that interest then should be

24

1 dismissed or that respondent should---?

2 A. That's correct.

3 Q. ---be dismissed?

4 A. Uh-huh.

5 Q. And that's reflected in Exhibit B-2, which

6 was filed with Mr. Eide and with Sharon today?

7 A. Yes, it was.

8 Q. There is escrow required for conflicting

9 claims in this unit and that would pertain only, I think, to

10 Tract 3B, is that correct?

11 A. 3B and 3C, I believe. Yes.

12 Q. Okay.

13 A. 3B and 3C.

14 Q. And 3C. And then there's...there are split

15 agreements here and you've got an Exhibit EE, correct?

16 A. Correct.

17 Q. And the folks that have split exhibit...

18 split agreements are listed in that exhibit and they are in

19 Tracts 2, 3A, 3B and 3C?

20 A. That's correct.

21 Q. The last couple of questions. First, is it

22 your opinion that the plan to develop coalbed methane from

23 under these units, which is a plan to use one frac well in

24

1 each of the units and locate that well in the drilling window  
2 is a reasonable plan to develop the methane from these units?

3 A. Yes, it is.

4 Q. Is it your opinion that between the leases  
5 that you've obtained and a pooling order pooling the  
6 respondents here today, that those two events or those two  
7 things would serve to protect the correlative rights of  
8 everybody in these units?

9 A. Yes, it will.

10 MARK SWARTZ: That's all I have.

11 BENNY WAMPLER: Questions from members of the Board?

12 MASON BRENT: If you can back up to unit Y-1, did  
13 you say there was an Exhibit E?

14 LESLIE K. ARRINGTON: No, sir.

15 MASON BRENT: You did not?

16 LESLIE K. ARRINGTON: I did not.

17 MASON BRENT: Oh, okay, I misunderstood you.

18 BENNY WAMPLER: Other questions?

19 SHARON PIGEON: No...no Exhibit E on Y-1?

20 MARK SWARTZ: Because there's no conflicts. It's an  
21 unknown.

22 MASON BRENT: I thought I heard him refer to an  
23 Exhibit E, apparently I didn't.

24

--

1           BENNY WAMPLER: I'll just start up here and we'll  
2 come around and come around let you folks ask questions.

3           RUSSELL SHORT: I guess our...we're involved with  
4 FF-37 and FF-38.

5           BENNY WAMPLER: Eleven and Twelve.

6           RUSSELL SHORT: CNX has constantly harassed and  
7 badgered us for the last two or three years. They don't seem  
8 to understand the word no. I don't---.

9           BENNY WAMPLER: Excuse me just one second. Do you  
10 care to just restate your name for the record?

11

12           RUSSELL SHORT: Russell Short. On FF-37, the well  
13 where they are showing the well to be drilled is on Mr.  
14 McGlothlin's property now. Before ever talking with me, the  
15 well was placed on my land, which is perfectly good for me.  
16 I don't want them on my land. So, they moved it off. I wish  
17 not to lease my gas. I don't want...I don't want them on my  
18 land. They can do one of two things and either one is  
19 perfectly fine with me. Leave me or buy me out. If they  
20 choose not to buy me out, they want to give me a price  
21 that...this...this is where my retirement home is to be  
22 built. For years...the reason I'm not living there now is  
23 because water is in short supply there. A lot people...my

24

--

1 brothers live there. They carry water up and down that  
2 mountain now. But the public water is laid right by my  
3 property. I plan to build my home there. I do not want to  
4 be involved with CNX. Now, if CNX wants it, it's fine with  
5 me. They can buy me out. But they're going to have to give  
6 me enough money to where I can go somewhere else and buy my  
7 land. There's several nice building spots with just a small  
8 amount of dozer work. That's basically it. I feel like this  
9 is just another foothold for them. The next thing they'll be  
10 wanting to drill somewhere and just like going in and doing  
11 their surveying. They said nothing at all to me. I happened  
12 to be there grouse hunting. Here I find that they've got a  
13 well laid off on my land. They had never approached me.  
14 They've got a well laid off, flags all over the place. I  
15 tore them all down. I've got the stakes in my...in my garage  
16 right now. I do not want to be involved with them. I've  
17 lived with them for the last ten years where I work and I  
18 certainly don't want to be involved with them after I retire.  
19 So, that's my position. You know, they can...they can have  
20 it all or have none. Fine.

21 BENNY WAMPLER: Mr. Arrington, do you have any---?

22 LESLIE K. ARRINGTON: I do. And he is correct, we  
23 did stake the well up there and I'll call it on Tract 2G.

24

--

1 They did stake that well, understanding that at that time  
2 when I sent the surveying party up there, you'll notice that  
3 there's a little rectangular tract there 2G. We thought at  
4 that point that that tract belonged to a Mr. Harold  
5 McGlothlin. They were told to stake that well there. When I  
6 got my surveying notes back and talked to the surveying party  
7 they had told me, "hey, wait a minute there's a property  
8 problem here." At that point, I stopped. You'll notice  
9 where the well is located now. It's located down in the  
10 hollow on Mr. McGlothlin. The very reason it's there at this  
11 point is because the guys come back and told me that that was  
12 on Mr. Short's, or it appeared that there was a property  
13 problem up there. I stopped at that point and it took us  
14 approx...I don't know how long it has taken us to finally  
15 come up with a well location that we can use to get the  
16 existing location that I have on this map. It is not  
17 permitted at this point. It is submitted.

18 MARK SWARTZ: And that's another Harold McGlothlin  
19 surface tract, right?

20 LESLIE K. ARRINGTON: Yes.

21 SHARON PIGEON: Which one of the units---?

22 RUSSELL SHORT: I'd like to ask the Board one  
23 question. Would you, sir, like to have a gas well within a  
24

1 100 feet or 200 feet of your house? Would you like to be  
2 awakened in the middle of the night with trucks coming and  
3 out and they have to do that to service these wells to check  
4 them periodically and maintenance and maintain? Would you  
5 like that, sir? Answer, please.

6 BENNY WAMPLER: Well, you know, I don't think any of  
7 us as citizen like any disruption, you know.

8 RUSSELL SHORT: That's good. That's right. That's  
9 all I'm saying. That's all I'm saying. If they want it  
10 fine, buy it. But they have to realize, you know, that I've  
11 got to go somewheres else and buy land, too. Go out and buy  
12 you a piece of land for a \$1,000. Buy some and I'll buy it  
13 off of you for a 101...a 1,100.

14 BENNY WAMPLER: Well, you probably know the Board  
15 doesn't have an ability to order them to do...to buy you out.

16 RUSSELL SHORT: I understand that.

17 BENNY WAMPLER: They have---.

18 RUSSELL SHORT: I understand that.

19 BENNY WAMPLER: The law gives them the right to  
20 produce the gas, you know. But I, you know, certainly  
21 respect what you're saying. I hope they work with you to do  
22 what you want.

23 LINDA SHORT: We've tried that. It didn't work.

24

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1           RUSSELL SHORT: We've tried to work with them. We  
2 even asked them to look up the word no in the dictionary.  
3 They don't seem to understand that, I mean, you know.  
4 They're a large company. They bully...bullying the people.  
5 That's simply said. The woman sat here, I don't...I didn't  
6 have the maps. I don't know whether she was right or wrong  
7 or what. But I really...I really liked what she said.  
8 Somebody needs to stand up for the poor people. This is a  
9 huge company. They get what they want.

10           LINDA SHORT: We did offer...they did offer to buy  
11 it from us and my husband agreed at one time. He came down  
12 with one of the guys...a Mr. Harris, I think, came down to  
13 the house. But my husband had not even mentioned it to me.  
14 It was over the phone. He pressured him kind of. Well, if  
15 you want this, just buy it and man the said, "Okay, how  
16 much?" He just off the top of his head said a price. When  
17 he told me that, I said, "No." I said, "That's not enough."  
18 I said, "We can't buy land somewhere else for that, you  
19 know." And so...but in the meantime Mr. Harris headed down  
20 toward the house with a check for that smaller amount. And  
21 when he got there, I told my husband, "No." I was part  
22 owner, that I didn't agree with that. When we told him what  
23 we wanted for it, he said, "No, that was too much. Forget  
24

1 it." We hadn't been contacted about it no more about buying,  
2 you know. Just all of this stuff.

3 RUSSELL SHORT: And they'll tell you when they come  
4 around...I don't know about any of these other folks, but  
5 they tell you when they come around, you know, they'll look  
6 at you and grin and say, "If you don't give it us, we'll get  
7 it anyway."

8 LINDA SHORT: Yeah, he said---.

9 RUSSELL SHORT: We'll get it anyway.

10 LINDA SHORT: ---we'll get your gas anyway.

11 RUSSELL SHORT: We'll frac it and then we'll frac  
12 ground and we'll get it. And it's just bullying the people,  
13 you know. I want to buy your home and you set a price and I  
14 said, "No. No, you're being unreasonable. I'll just go to  
15 some Board out here and we'll try to get them to give it to  
16 you at my price, you know." You know, to heck with you.  
17 That's what's going on. I don't know if you have any control  
18 over that or not. I guess maybe you said you didn't.

19 BENNY WAMPLER: Just understand a lot...you know,  
20 what the Board operates by is what the law says about this.  
21 The law does allow the companies to go ahead and produce this  
22 gas. It's an enabling statute that allows the companies to  
23 produce the gas. They really don't---.

24

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1           RUSSELL SHORT: So, why...why even...why even ask  
2 us? Why waste all of this paperwork. I mean, why are we  
3 meeting for?

4           LINDA SHORT: The law can do that and can take out  
5 the gas out from under our land whether we agree to---?

6           BENNY WAMPLER: Well, it can't---.

7           LINDA SHORT: ---it or not?

8           BENNY WAMPLER: Well, it's not that simple. I'm  
9 talking about what the Board operates under is a specific  
10 law. I mean, it's an enabling statute that encourages  
11 production of coalbed methane and to stop it, you have to go  
12 to Court. It's not something this Board can do. I don't  
13 know that the Court could, quite frankly. But that's...I'm  
14 just telling you that's where you would have to go. This  
15 Board has no ability to order them to buy you out or to not  
16 produce the gas if they are otherwise complying with the law.

17           CHARLES BOYD: Mr. Boucher himself told us that if  
18 you don't want these gas people on your property, they can't  
19 come on your property. That you have to give them the  
20 authority to come on your property.

21           BENNY WAMPLER: Right. Yeah, you're talking  
22 trespass, sir. I'm talk...I'm not trying to mix the two,  
23 okay. So, I'm not...I'm not saying that they can trespass or  
24

1 do those kinds of things. I'm talking about whether or not  
2 they have to buy the gas or you can otherwise prevent them  
3 from getting it.

4 CHARLES BOYD: Well, when you talk trespass,  
5 though, I mean, are you talking about walking through the  
6 grass or what's the difference in trespassing and pulling  
7 your gas out from under your property?

8 RAYMOND E. SHELTON: That's exactly right.

9 CHARLES BOYD: I mean, that's trespassing right  
10 there.

11 BENNY WAMPLER: It's permitted by law. That's the  
12 difference.

13 RUSSELL SHORT: Here we'll get it from under the  
14 table and that's it.

15 BENNY WAMPLER: The gas...the gas permitted...  
16 permitted by law. That is the difference. It's not a  
17 trespass in that situation. They don't...you know, I'll go a  
18 step further and tell you they don't have to come to this  
19 Board. They can go ahead and run the risk of trespass  
20 without coming here.

21 RAYMOND E. SHELTON: So, they can---.

22 BENNY WAMPLER: It says, "They may come here."

23 RAYMOND E. SHELTON: So, if they got the law, they  
24

1 can take the gas regardless what we say about it, then how  
2 come they send us this stuff and have us to take off a day of  
3 work to come down here to listen to nothing.

4 BENNY WAMPLER: That's---.

5 RAYMOND E. SHELTON: The last time I didn't show up  
6 at one of the hearings, which was like three and a half year  
7 ago, which I don't have nothing leased. I'm Raymond E.  
8 Shelton. I haven't leased anything, which I don't own the  
9 coal. But I haven't leased nothing. But the last time I  
10 didn't show up at the hearing, they told me because I didn't  
11 show up, I didn't have no rights. They wanted me to send an  
12 objection why I objected to FF-39. I said all I ask is my  
13 property not be disturbed and my water not be disturbed.  
14 They sent me back a paper said I didn't own my water no way.  
15 I've lived there for forty-three years and the well ain't  
16 ten foot from the house. So maybe I don't own my water.

17 BENNY WAMPLER: Well, which well---.

18 RAYMOND E. SHELTON: Which they've ruined that. It  
19 ain't worth that amount no way.

20 BENNY WAMPLER: Well, let me ask you, which...which  
21 unit are you talking about?

22 RAYMOND E. SHELTON: FF-39.

23 BENNY WAMPLER: FF-39.

24

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1           SHARON PIGEON: What was your name, again?

2           RAYMOND E. SHELTON: Raymond E. Shelton.

3           BENNY WAMPLER: I can tell you that the permitting  
4 law as far as the regulations in law covering the permitting  
5 activities does give the surface owner a right...specific  
6 rights and you can interact with them on where the...and with  
7 the gas and oil inspector on the location of that well. They  
8 can't come in and take a prime home spot that you wanted to  
9 build or something like that and place a well on it without  
10 working with you on a suitable...other suitable location.  
11 What you couldn't do is deny them the right to produce the  
12 gas.

13           RAYMOND E. SHELTON: They're allowed by law to say  
14 that they own it, but we're not.

15           BENNY WAMPLER: Well, you could. You could come in  
16 and propose to drill and produce it yourself.

17           RAYMOND E. SHELTON: It's never been proven who  
18 owns it yet, right?

19           BENNY WAMPLER: That's right.

20           RAYMOND E. SHELTON: So, he's...he's trying to tell  
21 me back here...I mean, he could have come to my house and  
22 explained this to me and save me a trip down here and I  
23 wouldn't miss a days work either if they had came by, you  
24

1 know, and talked to me.

2 BENNY WAMPLER: That's probably right.

3 RAYMOND E. SHELTON: They caused me to miss a day  
4 of work and I ain't missed a days work in a year and a half,  
5 just come down here for nothing and just so that I can hear  
6 that I don't have no rights to start with no way.

7 BENNY WAMPLER: Well, I'm not trying to tell you  
8 that. I'm just trying to tell you what the Board has to  
9 operate under, okay.

10 RAYMOND E. SHELTON: Right.

11 BENNY WAMPLER: The others are civil matters that  
12 have to go to Court, the things the Board can't address, you  
13 know. I understand your frustration with that.

14 RAYMOND E. SHELTON: So, by law the Board give CNX  
15 the right to take that gas?

16 BENNY WAMPLER: No, the Board didn't do any of  
17 that. Your elected officials did that.

18 RUSSELL SHORT: Well, just...just what is the  
19 Board...what does the Board do?

20 BENNY WAMPLER: The Board is appointed by the  
21 Governor to carry out provisions in the law that deal with  
22 pooling, that deal with appeals of the inspectors decision,  
23 that deals with escrow of money of people like unknown and  
24

1 unlocateables. It's to build...you know, build a record of  
2 that information. The Board didn't establish these laws and  
3 regulations. They did the regulations, but not the law.  
4 That was done by the General Assembly.

5           CHARLES BOYD: Does the Board oversee the  
6 guidelines as far as the gas companies as far as  
7 environmental and---?

8           BENNY WAMPLER: That's done through the inspector's  
9 office.

10          CHARLES BOYD: Well, like on EE-39---.

11          BENNY WAMPLER: Yes.

12          CHARLES BOYD: I mean, this...there's, I think,  
13 five or six involved in this as far as my family. I've got a  
14 mom that's disabled. I've got a dad that's disabled. I think  
15 this well here has already been drilled. The water system  
16 was contaminated. They got notices, don't drink the water,  
17 don't cook the water, don't bath in the water. I lived there  
18 for years and drank the water all my life. I mean, the water  
19 turned to pure mud when they drilled this well. I forget  
20 what the name of the bacteria was that we were notified, or  
21 my mom and dad was notified not to use the water system. At  
22 first they started supplying the water...drinking water.

23          BENNY WAMPLER: You're Mr. Boyd, right?

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1           CHARLES BOYD: Yes. Charles Boyd. Then they quit  
2 supplying them drinking water. I went to...I'd go buy  
3 drinking water and bring it to them or my sisters would bring  
4 it to them. They said, well, we take in...we take and get  
5 the water from the public water system to do these wells.  
6 They set up beside the road within a half a mile of the home  
7 place and pump water right out of the creek and haul to these  
8 drill sites and pump in these tanks. They say they were  
9 using PSA water to do this well. But we never did have any  
10 contamination until they put this well in. It come to the  
11 point that Mom and Dad didn't even have water to drink until  
12 we hauled it in to them. I mean, they quit furnishing the  
13 water. We didn't know who...as far as what to go to...I  
14 mean, once they kind of get their foot in the door, I mean,  
15 it's...I mean, you know, they kick you out in the wind and  
16 let you go.

17           BENNY WAMPLER: There's a specific statute on...on  
18 water. Gary, do you care to just discuss that with them, the  
19 process?

20           GARY EIDE: Well, he was referring to the drilling  
21 water. From what you said, I'm assuming that they were to  
22 get their drilling water from the public water source and  
23 that's what they'll use until they set the surface water  
24

1 string in the well bore. And that's...once they set that,  
2 all surface water or drinking water should be isolated from  
3 the drilling activity. After that is set, they can get water  
4 from other sources. So, that may have been what...what you  
5 saw. But now as far as the degradation of your water, you  
6 can complain to our office that you have had degradation of  
7 your water quality and we are...if you are within 750 feet of  
8 that well, we are required to come out and investigate your  
9 complaint.

10 BENNY WAMPLER: Are you within 750 feet of the  
11 well?

12 CHARLES BOYD: No.

13 BENNY WAMPLER: See, that's the...I mean, that's  
14 the...by statute, that's what...that doesn't mean...we look  
15 at all of them, but 750 feet is what the General Assembly  
16 said as a replacement.

17 CHARLES BOYD: So, they can't...you're saying they  
18 can't pollute your water if you're 750 foot away from them?  
19 I mean, they can go upstream or downstream and pump crud in  
20 the ground and it comes into your water system, it's not  
21 their fault?

22 BENNY WAMPLER: Well, I'm just telling you what  
23 the...where the water replacement statute stops is at 750

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1 feet away from the well.

2                   CHARLES BOYD: What I see here is you've got  
3 guidelines that protects these people to come in and just  
4 totally run over top of us anyway they want to do it to get  
5 what we worked for and we own, but really we don't have no  
6 control over it. I mean, they get paid to do this stuff. I  
7 miss a days work to come over here and try to protect what  
8 the Constitution should protect me from. I mean, we've got  
9 people making these laws that are owned by these companies.  
10 I mean, we don't have no rights. I mean, you know, they tell  
11 us to come and protect our interest. We don't have no  
12 interest. I mean...and you're sitting on the Board saying,  
13 "Well, we've got our guidelines," but hey, everything is  
14 already wrote out in black and white. We don't have no  
15 rights.

16                   BENNY WAMPLER: Well, all I can do is tell you what  
17 they are. That's why I just...you know, I'm venturing out  
18 here on this limb with you to just, you know, cut to the  
19 chase to go right at the issues that you have. I understand  
20 your issues. Those issues of protection that you want are  
21 beyond the current law.

22                   CHARLES BOYD: So, more or less, anybody to fight  
23 against this somebody needs to start like a Class Action

24

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1 Lawsuit like against CNX. I mean, somebody needs to butt  
2 heads with them and just bring it to the front.

3 BENNY WAMPLER: It's either a legislative matter or  
4 a civil matter. What I mean by that is through your  
5 legislators or in Court. It's...you know, the things that  
6 we're dealing with here, the information that you've heard  
7 this morning goes to pooling and escrowing. If we haven't...  
8 you know, what we're trying to do is make sure the record  
9 correctly reflects the parties involved and the percentage of  
10 ownership, all those kinds of things can come into question,  
11 how much the well cost can come into question---.

12 CHARLES BOYD: Well...excuse me.

13 BENNY WAMPLER: That's okay.

14 CHARLES BOYD: That's ballooned. I mean, that's  
15 escalated. I mean, they can take...I mean, you look at these  
16 lists...I mean, I've worked construction since I was 20 years  
17 old. I mean, it's all blown out of proportion. I mean, one  
18 well they might spend \$200,000 on. That doesn't mean they're  
19 going to spend...I mean, when you come down and scratch the  
20 grass off and you knock a flat place down, you know, in a  
21 couple of days time, that's not \$250,000 for a well site.  
22 But the way it was explained a while ago as far as the way  
23 the money is put out and expenses, more or less, we're to

24

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1 keep our property, pay the taxes on it, let them have the use  
2 of it with no sayso over it. They don't want the property.  
3 You say, well, if you want to come through here, buy us out  
4 and get us out of the way, you can have it. I mean, I just  
5 want a decent place for my mom and dad to live and be left  
6 alone. You know, they're saying you're going to have to put  
7 up with what we're going to do to you and you're going to  
8 like it. You ain't got water to drink. If you got water to  
9 drink, you haul it in here. If it's all left up to them and  
10 my dad can't drive and my mom can't drive. Both of them is  
11 disabled. Why did they take the responsibility to start  
12 furnishing them water and then come up and say, "Well, we  
13 didn't contaminate your water." When they drilled, it turned  
14 to pure mud. I mean, you catch it in a glass and it come up  
15 like chocolate milk.

16 BENNY WAMPLER: You're saying they do live further  
17 than 750 feet from the well?

18 CHARLES BOYD: I'd say. I mean, the well is on  
19 another tract, but it's directly in the water system. What  
20 does it matter?

21 BENNY WAMPLER: Well, we would investigate that and  
22 we will investigate that. We always do. We investigate all  
23 of them. I'm just saying the law specifically sets the 750  
24

1 foot for replacement. Outside of that, we have to determine  
2 that in fact it did damage your water supply, not disrupt it  
3 but damage it.

4 CHARLES BOYD: And it's just like the service  
5 water, they have trucks come in to service these well sites.  
6 You can see a truck running up and down the road with water  
7 running out the back end of it. It'll turn orange streaks in  
8 the road. To my understanding, they're supposed to take this  
9 stuff and put it in an injection well to keep it out of the  
10 water system.

11 BENNY WAMPLER: That's right.

12 CHARLES BOYD: On 618, there's a slate dump and  
13 they'll service those wells and open the valve full and run  
14 up and down the slate dump till they empty their truck. I  
15 mean, who regulates this stuff? I mean, it's just like a  
16 wild fire. Nobody...everybody says we got control over it  
17 but nobody's...I mean they're just letting it go.

18 BENNY WAMPLER: The Division of Gas and Oil  
19 regulates it. Anything you see that happens where you  
20 actually witness---.

21 CHARLES BOYD: Well, I'd like to had a video camera  
22 and filmed it, you know.

23 BENNY WAMPLER: Please do. Please do that. That

24

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1 will help us more than anything.

2           CHARLES BOYD: They start, you know, and get their  
3 foot in the door and when they get in, everything just goes  
4 wild, you know. I mean, I just feel like our rights are  
5 taken away, you know, as far as property owners. You pay the  
6 bills and let us have the use. I mean, that's about what it  
7 amounts to. Nobody, as far as this property, nobody had  
8 talked to me about leasing. Nobody...I mean, I just got a  
9 small percentage, but like I say, I don't want a penny out of  
10 it. I just want my mom and dad to have a decent place to  
11 live and be left alone.

12           BENNY WAMPLER: Well, it's one of those things in  
13 Virginia that the mineral owners have what's called  
14 reasonable access to the surface use to extract mineral,  
15 whether it's mining coal or extracting gas, in this case it's  
16 gas. They further clarify by law the way that that happens,  
17 and this statute enables the operating company to come here  
18 and to protect themselves from trespass and other kinds of  
19 civil suits by escrowing, by pooling, and that's what those  
20 provisions are for. It does further give you a right through  
21 the permitting process, as surface owners to interact with  
22 how...it sets out specifics for sediment and erosion control  
23 and displacement of a particular prime piece of land.

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1            LINDA SHORT: So, really today there is no reason  
2 for us to even be here even if it's a test. If we don't come  
3 to an agreement, they're going to take all these 9-1, 9-2,  
4 and 9-3 plans and give it to us no matter what. And we're  
5 going to help pay for the drilling and everything out of...  
6 before we get our cut.

7            BENNY WAMPLER: No, you're not...well---.

8            LINDA SHORT: Well, it says after...after the deal,  
9 the \$236,000 are paid, then you get your (inaudible) and  
10 everything.

11           BENNY WAMPLER: Well, that is confusing. There is  
12 different methods there, but that's...if you lease, then  
13 that's not the case. That's if you are participating.

14           LINDA SHORT: But it's not over...within a five  
15 year period, and you're not going to be making that much  
16 money off of it with your land.

17           RAYMOND SHELTON: It's supposed to be a dollar an  
18 acre, is that the way I understood it there a while ago?

19           BENNY WAMPLER: That's what they're proposing, sir.

20           RAYMOND SHELTON: Well, they give me two dollars to  
21 lease mine for five years. They have a right to put a road  
22 across it anywhere they want to.

23           LINDA SHORT: That's not very much money.

24

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1           BENNY WAMPLER: No, not to put a road across you  
2 anywhere they want to. You have an opportunity through the  
3 permitting process to get with an inspector on that.

4           MARK SWARTZ: Well, let's focus on the maps here.  
5 We're not on any of these folks' surface. If they're  
6 complaining that they want us off their surface, we're not  
7 proposing to be on their surface.

8           RAYMOND SHELTON: I'm not complaining you're on my  
9 surface. According to the map it just shows that if you frac  
10 a well within ...it takes in 80 acres in diameter, am I  
11 right? That's what it says.

12           MARK SWARTZ: We're going to pay everybody in this  
13 80 acre unit something, depending on what they choose.

14           RAYMOND SHELTON: Royalty.

15           MARK SWARTZ: If you do not think you're going to  
16 get your piece of the royalty for the gas that's produced  
17 from this well in this unit.

18           RAYMOND SHELTON: After we help pay for the well?

19           MARK SWARTZ: No. No. If you do absolutely  
20 nothing, if you leave here today and do nothing, and the  
21 Board pools this unit, you will get your piece of the  
22 revenue, assuming it's not subject to escrow. I don't know  
23 if you---.

24

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1           SCOTT HODGES: It is. It is subject to escrow.

2           MARK SWARTZ: So, you probably are a surface owner  
3 and gas owner. Tell me what your name is.

4           RAYMOND SHELTON: Raymond Shelton. I don't own the  
5 gas on it, I don't guess, because Coal Mountain says they own  
6 it because they own the coal. How does that make me the gas  
7 owner?

8           MARK SWARTZ: I thought I saw your name. Which  
9 unit are you in?

10          RAYMOND SHELTON: Tract seven.

11          MARK SWARTZ: FF?

12          LINDA SHORT: 39.

13          MARK SWARTZ: 39. I've got you in 1-C here.  
14 You've got two acres, which would be 2.2344%. That would be  
15 your percent of the interest in the royalty.

16          RAYMOND SHELTON: Right.

17          MARK SWARTZ: So if you do nothing, okay, there's  
18 going to be 2.2344% times the money set aside with the  
19 Board's escrow until the conflicting claim of whoever the  
20 coal owner is here.

21          RAYMOND SHELTON: Coal Mountain.

22          MARK SWARTZ: I'll take your word for it. Until  
23 you either settle with them, and you'll notice here, you've  
24

1 got some folks in this unit that have worked out the  
2 conflict. Coal Mountain has settled with Ball and Coal  
3 Mountain has settled...well, with both of these tracts. I  
4 assume they have agreed to split it 50/50 and not escrow. If  
5 you were to work, you know, an arrangement with your coal  
6 owner and enter into an agreement to split rather than try to  
7 figure out who...I mean, you would be paid directly. If you  
8 can't work it out with them or you don't want to, then their  
9 money, or their claim along with yours gets escrowed in this  
10 amount.

11 RAYMOND SHELTON: Why is it left up to me to go to  
12 them? Why won't they come to me? You're saying if I don't  
13 do nothing, they're going to get it anyway.

14 MARK SWARTZ: No, the Board's going to get it.  
15 It's going to be escrowed with the Board.

16 RAYMOND SHELTON: So we won't get it, or Coal  
17 Mountain.

18 MARK SWARTZ: Correct, until you either work it  
19 out.

20 RAYMOND SHELTON: I could live with that as long as  
21 they didn't get it.

22 MARK SWARTZ: Well, you know, it's up to you.

23 RAYMOND SHELTON: This guy back here told me I need  
24

1 to work it out with them. Small people like me can't work  
2 out nothing with a company like that.

3 BENNY WAMPLER: A lot of folks have been able to  
4 come to a 50/50 split agreement.

5 MARK SWARTZ: I assume that this Mr. Ball is not a  
6 big deal, you know, is not a coal company or an oil and gas  
7 company, this Carl Ball, and he clearly---. I see all the  
8 time where just folks cut deals with Land (inaudible) and cut  
9 deals with Coal Mountain and some of the McGuire Trust. I  
10 mean they wouldn't be doing this if they didn't want to just  
11 get the money out of escrow.

12 RAYMOND SHELTON: Well, the deal you're saying that  
13 they cut is---.

14 MARK SWARTZ: I'm assuming it's 50/50.

15 RAYMOND SHELTON: ---because they leased their...  
16 because they leased. That's the deal.

17 MARK SWARTZ: No, no, no. Mr. Ball could cut a  
18 deal with them whether or not he had a lease with us.

19 RAYMOND SHELTON: Well, everybody (inaudible).

20 MARK SWARTZ: But he doesn't have to be leased.

21 RAYMOND SHELTON: I'm sitting right back where the  
22 girl was to start with. I'm in the middle.

23 MARK SWARTZ: Well, what I'm telling you, if your  
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1 coal owner is Coal Mountain, you don't need to lease to my  
2 client to cut a deal with them to not have your money  
3 escrowed and receive it (inaudible). That's what I'm saying,  
4 you don't have to have a lease.

5 RAYMOND SHELTON: But according to this, it's  
6 supposed to be...it's already going into escrow, right?

7 MARK SWARTZ: Until you have an agreement. We  
8 can't pay them because we don't know the date on it, and we  
9 can't pay you because they're going to say, "Well, don't pay  
10 him because we might have it." So it's going to go into  
11 escrow and if you guys cut a deal like Carl Ball did, then  
12 you can split it. You don't need a lease with CNX to make  
13 that happen, and the money will come out.

14 BENNY WAMPLER: Mark, I am going to ask you for  
15 other folks' purposes here to describe the provisions of  
16 participation, lease.

17 MARK SWARTZ: The choices that you have, there are  
18 three choices. One of them is a lease, and that lease can  
19 either be one of the options the Statute provides, that you  
20 deem to have been leased. You haven't really signed a lease  
21 but you're treated as if you were leased. So one of your  
22 options is to either actually lease to CNX or not to lease to  
23 them, but be leased under a Board order. That...we just

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1 talked about. You and I just talked about what happens if  
2 you're deemed to have been leased by this Board, not that you  
3 signed something with them. But that's what would happen.  
4 The only problem for you getting paid is cutting a deal with  
5 Coal Mountain, because otherwise, it's going to go in escrow.

6           The second option is you want to be a partner.  
7 That's another choice that you make, okay. If you want to be  
8 a partner, you take, for example, you would take here 2.2344%  
9 times roughly \$250, so you're at maybe...is that \$7500?  
10 You'd have to come up with roughly \$7500 to buy 2.2344% of  
11 this well. Okay. If it costs more, you would have to come  
12 up with 2.2344% of that. If it turns out that it costs  
13 less...because if you put this up, it will accumulate all the  
14 actual (inaudible). But if it's less and you paid \$7500, you  
15 get some rebate. So you could actually become a partner in  
16 this well. Then your 2.2344% would be... you'd still have  
17 your percentage of the royalty, okay. But you would also  
18 have that same percentage of the other 87 1/2%.

19           The person who drills the well or the people who go  
20 into partnerships to do the well own 87 1/2% of the revenue  
21 basically. And the royalty owners own the 12 1/2%. So if  
22 you pony up your money...you've already got your piece of 12  
23 1/2% and you're going to be buying a piece of the 87 1/2%.

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1           The third option is to say, "I don't want to write  
2 a check, but I want to be what's called carried." What it  
3 says is when you have recovered...I'm thinking it's two times  
4 because it's unleased, when you...what you're saying is when  
5 you have recovered twice what you paid for drilling a well,  
6 I'm going to back into partner. At that point, if there's  
7 plugging costs or other costs, you'd be a partner, but you  
8 wouldn't have to contribute to the cost of the well.

9           No matter which choice you make you're always going  
10 to have your royalty interest. So the choices really only  
11 involve, are you going to either pay for a piece of the  
12 working interest up front or are you going to try to back  
13 into it. I mean, those are the three choices.

14           RAYMOND SHELTON: Still not be getting nothing  
15 regardless of what you done.

16           MARK SWARTZ: Let me just suggest something to you.  
17 If these wells are money makers for my client and they come  
18 up with 100% of the costs to drill these wells and they're  
19 making money, why would you assume that you would not make  
20 money if you bought a piece of it on the same terms that  
21 they're in the deal. I mean they're not drilling wells to  
22 lose money.

23           RAYMOND SHELTON: Well, I'm sure of that.

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1           MARK SWARTZ: I mean, you know, I'm just trying to  
2 tell you, this is...they drill hundreds of wells and they're  
3 making money doing it.

4           RAYMOND SHELTON: If I wanted to go into business,  
5 I'd go back into my own logging business is what I'd do.

6           MARK SWARTZ: But in terms of whether or not this  
7 is a potential, legitimate business opportunity, I'm  
8 suggesting to you that it is potentially a legitimate  
9 business opportunity. I mean, we don't have a lot of people  
10 that write these checks, but we have people that participate  
11 in these wells. Those are the choices that you have. The  
12 Statute, as Benny has said, the Board's choices...that  
13 Statute says that the Board must give you those three  
14 choices. So any order that comes from them is going to have  
15 those three choices.

16

17           With regard to water issue, you know, I would  
18 suggest to you that you get with Gary or with Bob Wilson and,  
19 you know, we address complaints. We do water testing. We're  
20 familiar with this process, you know, and if you've got a  
21 complaint, or your family does in terms of their water, you  
22 know, we can...I mean, I would rather deal with this stuff in  
23 an environment where we got test data, where we got the

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1 people who actually do it. You've got somebody with  
2 technical expertise looking at our casing program and so  
3 forth. I mean we have these kinds of hearings, not all the  
4 time, but I mean pretty often. And, you know, Benny kind  
5 of...I should call him Mr. Wampler, kind of gives sometimes  
6 the feeling that the Board's discretion is limited or that  
7 the Department's discretion is limited. They enforce...this  
8 guy over there enforces the water quality laws, basically,  
9 involved in well drilling. You know, go to him and deal with  
10 him. You know, if these folks haven't already, but you know,  
11 we do...when we file a permit, there is a water protection  
12 portion of that permit that we are required to address and we  
13 look at wells in the area. We look at aquifers where we  
14 produce water from and we intentionally try to design our  
15 casing to put in a water protection string below the lowest  
16 wells and the lowest sources of potable water. So, I mean,  
17 we're required to do that. Our permit addresses that. We  
18 know exactly where our water protection string is. So when  
19 you go to him, I mean there's documentation of what we're  
20 supposed to do, what we did in terms of cementing. You know,  
21 there's...you know, if you feel you have a water problem and  
22 you feel like it was our fault, or you just want to know,  
23 then you deal with it.

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1           CHARLES BOYD: Well, a question of thought is kind  
2 of out of the question because we didn't have a problem  
3 before the well was put there.

4           MARK SWARTZ: I understand. I understand, but  
5 without getting---. You need to talk to him about what can  
6 cause water wells to crater on you, and there's a whole bunch  
7 of things that can happen. But we're certainly...you show  
8 up, we respond to these requests. We deal with water issues  
9 pretty regularly.

10          CHARLES BOYD: That's why that people have these  
11 feelings toward certain companies. I mean, when you come in  
12 like a big bully and you get---.

13          MARK SWARTZ: Well--.

14          CHARLES BOYD: ---and you just get...you just see  
15 them get away with this, this and this, you---.

16          RUSSELL SHORT: This company...this company knows  
17 very well what to do with water, I'm telling you. We pump  
18 hundreds of gallons of water every day because of those gob  
19 wells and frac wells, putting it in the mines. We even lay a  
20 big pipeline across the surface so we can pump it out of one  
21 mines into another. They know what they're doing. They know  
22 what they're doing. Don't put that show on here.

23          MARK SWARTZ: I don't understand---.

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1           RUSSELL SHORT: We're really...we're really wasting  
2 time here. We're not going to get nowheres. I'm ready to  
3 go.

4           MARK SWARTZ: Okay.

5           CHARLES BOYD: I want to ask one other question.

6           BENNY WAMPLER: Yes.

7           CHARLES BOYD: We keep talking about coalbed  
8 methane.

9           BENNY WAMPLER: Yes.

10          CHARLES BOYD: In West Virginia, they say coalbed  
11 methane is natural gas. I mean, that was ruled in a court.  
12 Here we talk about natural gas and coalbed methane not  
13 being...I mean it's two different products. I mean, if it's  
14 natural gas in West Virginia, how can it be two different  
15 products in Virginia?

16          MARK SWARTZ: Well, it's not really.

17          BENNY WAMPLER: I guess the statute just defines  
18 the gas produced from coal seams as coalbed methane. It's  
19 just the definition.

20          MARK SWARTZ: Yeah. Our law says it's where it  
21 comes from. Think about that for a minute. It says if you  
22 produce gas from a coal seam, or associated strata...or coal  
23 seam, that's coalbed methane. They're not saying it's not  
24

1 natural gas. They're just saying if you want to produce gas  
2 from a coal seam, you got to drill a coalbed methane well.  
3 That's what they say in Virginia.

4 CHARLES BOYD: Where does natural gas come from?

5 MARK SWARTZ: It's basically the same. It's in a  
6 natural gas pipeline.

7 BENNY WAMPLER: The quality is about the same. The  
8 natural gas in Virginia is produced at a much deeper depth.

9 MARK SWARTZ: Oh, do you mean where would a well be  
10 to get---?

11 CHARLES BOYD: No, I know it's deeper.

12 MARK SWARTZ: It would be not related to coal. So  
13 a natural gas well, like a traditional gas well from his  
14 permitting standpoint, you know, if you were going to get a  
15 permit here, it would have to be of some strata not including  
16 coal seams. Basically, it's got to be deeper than, I'm  
17 guessing, 2400 feet, 2500 feet. Is that about the extent of  
18 it? If it's not deeper than that, you've got coal  
19 involvement potentially.

20 CHARLES BOYD: Like on farther down here where it  
21 says surface and all minerals except coal, we retain the  
22 rights to.

23 MARK SWARTZ: Right.

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1           CHARLES BOYD: So they got the coal, but the gas,  
2 we have the gas, especially what this says.

3           MARK SWARTZ: I'm inclined to agree with you, but  
4 the Court hasn't said that. That's my personal opinion.

5           CHARLES BOYD: As far as compared to cost, I  
6 know...well, I've looked at some of these meters from these  
7 wells and some of them is astronomical and---.

8           MARK SWARTZ: And some are a hole.

9           CHARLES BOYD: ---some are cubit feet or whatever  
10 of gas. Cost wise, what does a cubit foot of gas sell for?

11          MARK SWARTZ: I think we had a fixed price last  
12 year of right around four bucks.

13          LESLIE K. ARRINGTON: Per thousand cubit feet.

14          MARK SWARTZ: Per thousand cubit feet.

15          CHARLES BOYD: Per thousand.

16          MARK SWARTZ: Which is pretty good compared to---.  
17 When I first came down here, it was a buck and a quarter.

18          CHARLES BOYD: So, when you estimate like a  
19 boundary of property and how...I know it's an estimation and  
20 you don't ever know. You could get more and you could get  
21 less. What percentage do you pay the property owner?

22          LESLIE K. ARRINGTON: One-eighth.

23          CHARLES BOYD: One-eighth.

24

1           MARK SWARTZ: Whatever the actual amount is that we  
2 get. So, I mean, we deduct essentially the transportation  
3 and compression and after that they get their one-eighth of  
4 the money. The way the Board order is worded, it's the  
5 actual proceeds. So whatever our contract says, that's the  
6 starting place. At times this year, I think it's been more  
7 than that, although I'm not sure.

8           BENNY WAMPLER: I didn't trying to upset you about  
9 anything. I was just trying to be straightforward with you.

10          RUSSELL SHORT: I understand and, you know, I  
11 just...I get upset every time I talk about this subject.

12          BENNY WAMPLER: I understand that.

13          RUSSELL SHORT: Anytime anybody wants to---.

14          BENNY WAMPLER: I just want to be straightforward  
15 with you about, you know, from a standpoint that the law  
16 allows them to produce the gas. You know, you have to  
17 realize that right up front, and that gets you across a  
18 certain hurdle. You know, if you had a deed or something  
19 like that where you retained all the rights and went to  
20 court, I don't know what the Court would order, but you know,  
21 I'm just telling you currently, as a blanket, the law in  
22 Virginia allows that.

23          CHARLES BOYD: You got a lot of politicians in gas.

24

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1                   RUSSELL SHORT: Huh?

2                   CHARLES BOYD: You got a lot of politicians in gas.

3                   RUSSELL SHORT: You got politicians anywhere

4 there's money.

5                   LINDA SHORT: The thing about this, I know that

6 this is a big company and everything, and they have money to

7 offer. They don't offer the leases that much money knowing

8 that they're going to get millions, probably billions, out of

9 it eventually. And just like in our circumstances here, we

10 have land that we want to retire on. Okay, we're going to

11 have a well right over the hollow from us and everything. I

12 know that the Board can't do nothing about it. I probably

13 need to talk to Arrington about it. They haven't contacted

14 us like that much. Like I told you, once they found out what

15 we wanted for it, we heard nothing else from them, you know.

16 Why...I mean...well, you still can't answer the question,

17 but it looks like the government would, you know, protect

18 people like us. We have something that's worth something to

19 us. Why can't we be compensated for it properly. The

20 companies gets compensated very well because they have the

21 right to come in and do this. The government...I know the

22 government doesn't, but you know, why can't the Board say,

23 you know, you all need to try to compensate these people, you

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1 know, properly for this.

2           BENNY WAMPLER: Well, we certainly believe they  
3 should compensate you properly. We don't have the ability to  
4 order that.

5           LINDA SHORT: That's what I said. I know now that  
6 this isn't the right place to pursue this.

7           BENNY WAMPLER: You do have the ability if you own  
8 the gas to produce that gas yourself.

9           LINDA SHORT: Well, see, we didn't know that.

10          BENNY WAMPLER: You can drill a well and be an  
11 operator. You could be in here just as they are setting to  
12 pool people around you and pool them included.

13          RUSSELL SHORT: What if I say, hey, I want to get  
14 my gas and I want to get it down the road and I don't want  
15 them to be involved with it. You going to rule against them?

16          LINDA SHORT: Can't do it.

17          BENNY WAMPLER: We don't have...we can't make them  
18 wait. We can't stop them. They're here first. It's one of  
19 those, who is there first.

20          RUSSELL SHORT: Okay.

21          BENNY WAMPLER: You know, I'm just telling you  
22 straight up, okay.

23          RUSSELL SHORT: I understand.

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1           BENNY WAMPLER: I'm not trying to waffle...I don't  
2 waffle around. I'm telling you straight up the way it is.

3           LINDA SHORT: Well, I guess about everybody were  
4 like us. We thought this hearing was for something that we  
5 could, you know, to give our say and get something out of it  
6 actually.

7           BENNY WAMPLER: You could if you had...you could if  
8 you had something that the Board could address.

9           LINDA SHORT: But you all can't address our needs.

10          BENNY WAMPLER: Not when you don't want gas  
11 produced, we can't. We really can't.

12          LINDA SHORT: So, really, basically there wasn't no  
13 need for us to show up today and miss work.

14          RUSSELL SHORT: I'd really like to see them put a  
15 well right close to your house and see how you would handle  
16 it. I bet your wife would scream bloody murder.

17          KEN MITCHELL: Mr. Chairman, could I make a  
18 statement?

19          BENNY WAMPLER: Yes.

20          KEN MITCHELL: I'm one of those politicians you  
21 just mentioned, by the way. But, I believe that things have  
22 to be changed through being internal. As a citizen of my  
23 county, I couldn't change things, but as a seated, elected  
24

1 supervisor, I can change things. But in your case, what you  
2 need to do, and I strongly advise this, is to contact your  
3 State Delegate, your State Senator, and even other State  
4 Delegates and State Senators and try to get some things  
5 changed if you feel in your heart that this is a travesty or  
6 something is wrong, or wrongdoing, you got to change it, but  
7 it can't be changed on this Board level because we are  
8 restricted by State law. We can only make certain issues.  
9 We can't make judicial issues. We can't force people to do  
10 certain things, but I'm saying things are changed through the  
11 State Legislature. You definitely should contact your State  
12 Senator...I'm just suggesting this, and your State Delegate  
13 and say, "We have a problem with some of the property rights  
14 issues with reference to oil and gas. What can you do about  
15 it?" And address it at that stage. If they feel that they  
16 agree with you, then they can make something happen. If they  
17 don't agree with you, you can vote them in or vote them out,  
18 you know.

19 RUSSELL SHORT: I'm sure that's done been tried,  
20 though, aren't you?

21 KEN MITCHELL: I don't know. I don't know, but I'm  
22 saying...I'm just saying you should make the effort to  
23 contact them and tell them your reserves, the things that you  
24

1 feel concerned about and go from that point. I'm just saying  
2 we don't make...we don't make the law. They make the law.

3 CHARLES BOYD: That's how we got to where we're at  
4 now.

5 MARK SWARTZ: Well, except...let me give you two  
6 examples. Let's look at EE-39. In EE-39, 99.5% of the  
7 people want this to happen. So this is America. So if we  
8 have 99.5% of the people have voted with leases and  
9 acquisition in unit EE-39 and said, "We want our gas out of  
10 the ground. We want our piece of the money right now." In  
11 unit FF-39, 81% of the people have voted by signing a pen to  
12 a lease and said, "We want our gas out now."

13 RUSSELL SHORT: You know why?

14 MARK SWARTZ: I try not to interrupt you. Okay.  
15 I'm not going to get ugly. I'll be done in a minute, I  
16 promise.

17 But, you know, what we tend to hear at these  
18 hearings is, "We're victims. This is awful." And there are  
19 two sides to this story, and my recollection of the reason  
20 why the Legislature was persuaded to pass this law back in  
21 1990 was that the Legislature felt that it was a legitimate  
22 goal in this state to produce energy that was in the ground  
23 and not let it be blocked by these kinds of arguments, and to  
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1 develop a reasonable means to have this happen. Now, you  
2 know, theoretically, we could come in here, I guess, with 99%  
3 of the people trying to pool and then only one percent  
4 leased. I mean, you don't see us doing that because it's not  
5 a good idea, but the laws allow that. But in at least a  
6 couple of examples I've given you, you need to see both sides  
7 of it. You guys need to think about it, too. I mean, the  
8 consequence of your complaint is, we own...or have an  
9 interest of less than a half of a percent in this unit and we  
10 don't want the other 99.5% of the people that are in that 80  
11 acre unit to derive any revenue, and I don't think that's  
12 fair either. I mean, so you know, people disagree about  
13 money all the time, you know, what's fair, what's enough.  
14 But the philosophy behind this law, which is develop gas on  
15 some kind of reasonable basis and, you know, the two examples  
16 I've given you, I mean, if people were voting and the  
17 majority were to control, this would be happening. I'm  
18 sorry, if I took a little longer than I planned.

19           CHARLES BOYD: Well, a lot of people agreed with it  
20 because they were told, "If you don't sign, we're going to  
21 get it. We're going to get it one way or the other."

22           MARK SWARTZ: Well, that was the intention of the  
23 law. I mean, the law was to make people participate in these

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1 deals. I mean, that was the whole idea.

2           RAYMOND SHELTON: They come around and told these  
3 people, and they told me when they came by, "If you don't  
4 lease this gas and it's proven that you own it, if you don't  
5 lease it, then on down the road you don't get nothing from  
6 it."

7           MARK SWARTZ: Well, my people wouldn't tell that.

8           RAYMOND SHELTON: A lot of these people that they  
9 leased off of all the way around me, there's...some of them  
10 don't even live there no more.

11           CHARLES BOYD: I mean, I've known them all my life.  
12 That was the tactic. You listen to them talk, they said,  
13 "We just went ahead and signed it because they told us they  
14 was going to get it one way or the other."

15           MARK SWARTZ: Well, to get it one way or the other  
16 is not...you know, if you asked me, "Can I block this  
17 application?" Let's say if you came in my office as a lawyer  
18 and you said, "I got this in the mail. What can you do to  
19 stop this?" If I told you, "I don't think I can stop this."  
20 That doesn't mean I don't think you're going to get your  
21 money.

22           RUSSELL SHORT: You done explained that to me.

23           MARK SWARTZ: And, you know, I know these guys. I  
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1 spend a lot of time with these guys. The guys in this room  
2 would not be out telling people you're going to get zero.  
3 Now, they might have the same kind of conversation Mr.  
4 Wampler is having with you and that I'm having with you that  
5 the intention of this law is to allow development. That was  
6 the whole idea. So, if you say, "Is a truck headed in my  
7 direction?" My answer would be, "You bet it is." But is  
8 that truck going to take your property without paying you, my  
9 answer to that would be no. But that doesn't mean...getting  
10 back to where he's coming from.

11 RUSSELL SHORT: You explained that quite  
12 eloquently. I've completely changed my attitude.

13 MARK SWARTZ: No, you haven't. No, you haven't.  
14 But, you know, what...amazingly---

15 RUSSELL SHORT: I understand exactly what you're  
16 saying.

17 MARK SWARTZ: There's always two sides to every  
18 story.

19 RUSSELL SHORT: I understand exactly what you're  
20 saying. But, on the other hand, I don't want my land  
21 bothered. That's where my...that's where I plan on being in  
22 a year and a half.

23 RAYMOND E. SHELTON: And the whole purpose---

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1           RUSSELL SHORT: But I'm not going to live there  
2 with your pump running down the hollow and trucks running in  
3 all night. And you know that's going to happen. You know  
4 it.

5           MARK SWARTZ: Well---.

6           RUSSELL SHORT: And I'm saying, "Fine, you go ahead  
7 and do that." You pay me and I'll get out, but give me  
8 something reasonable.

9           MARK SWARTZ: I hear you.

10          RUSSELL SHORT: That's all I'm saying.

11          LINDA SHORT: That's right.

12          MARK SWARTZ: Everything...part of our national  
13 past time is fighting over money. Everybody's got an opinion  
14 about what something is worth, you know. And, you know, I'm  
15 not saying that you're ultimately not going to reach some  
16 kind of agreement with them, but what I'm hearing from you  
17 today is you had an agreement, you had second thoughts, you  
18 upped the price and they refused to pay it. That doesn't  
19 necessarily mean you're going to have another conversation.

20          RUSSELL SHORT: I'm setting on the john at 7:30  
21 after I have worked until 2:00 o'clock in the morning. My  
22 wife hands the phone in the door to me and I get it, and the  
23 guy starts wanting to lease it. I said, "Look, don't you  
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1 know what no means?" I said, "If I wanted to do anything,  
2 I'd sell it to you." He said, "What do you want?" I said,  
3 "\$1,000." He said, "I'll be down to see you," and the phone  
4 hung up. I told her and she blowed her stack and which I  
5 never should have give him that to begin with.

6 LINDA SHORT: But you do things like that off hand,  
7 and that is exactly how it happened.

8 RUSSELL SHORT: But that doesn't make any  
9 difference, you know.

10 LINDA SHORT: They should work with us.

11 RUSSELL SHORT: That's perfectly legal. There's  
12 nothing wrong with what we did there.

13 MARK SWARTZ: People have disagreements about what  
14 stuff is worth all the time.

15 RUSSELL SHORT: That's fine. Just leave me alone.

16 MARK SWARTZ: Well, we're trying to stay off of  
17 your property and I think we've succeeded. We're not going  
18 to have a road on your property or gathering line on your  
19 property. The well is at least three or four hundred feet  
20 away from the closest property line. You know, and to the  
21 extent that we can accommodate that legitimate desire and not  
22 be bothered to the extent we can, we've done it.

23 RUSSELL SHORT: Have you been off a hundred feet  
24



1 from one those roads you guys has got and one of those big  
2 trucks come rolling in?

3           MARK SWARTZ: Yeah, but they're not a freeway.  
4 They don't go by there like every fifteen minutes. You know,  
5 once you drill a well, you pick up water every now and then,  
6 maybe.

7           RUSSELL SHORT: There's a lot of traveling to those  
8 wells, and especially when you put the gob wells in. Oh,  
9 Jesus, they got to go, because if they don't, that longwall  
10 is affected, right? You know, I've done been up and down  
11 these roads. I used to put those wells in. I know exactly  
12 what they do.

13           MARK SWARTZ: If it's a gob well, we inject the  
14 water back into the well and they're not picking it up and  
15 all that traffic is gone. So, in fact---.

16           RUSSELL SHORT: None at all?

17           MARK SWARTZ: ---the gob wells have less travel to  
18 them than the others, because the water that we haul from the  
19 frac wells that we got to go get, we can inject that. We got  
20 an EPA permit. We just put that back in the line. I  
21 mean---.

22           RUSSELL SHORT: You guys aren't barely even seen.  
23 Now, you know that ain't true. Those mountains are tore all

24

--

1 to hell.

2                   MARK SWARTZ: What ain't true, that we put the  
3 water from the gob wells back in the mine?

4                   RUSSELL SHORT: Yeah, I'm sure you do that. I'm  
5 sure you do that.

6                   MARK SWARTZ: Okay, why---.

7                   RUSSELL SHORT: But you are running those roads  
8 constantly.

9                   MARK SWARTZ: I guess we may have a disagreement  
10 about that.

11                   BENNY WAMPLER: I'm going to get back here on the  
12 subject here. Is there anything else that you all want to  
13 bring up? We're been trying to be as open as we can about  
14 what our authority is and what the procedures are.

15                   RAYMOND E. SHELTON: My only purpose for being here  
16 today was the last time when I got one of these I didn't show  
17 up and then I received a paper in the mail saying I didn't  
18 have no rights because I didn't show up.

19                   BENNY WAMPLER: Was that a hearing on a permit  
20 application?

21                   RAYMOND E. SHELTON: Supposedly. It's been about  
22 three or four years ago.

23                   BENNY WAMPLER: There are specific time lines for  
24

1 that, but to not show up here doesn't mean that you don't  
2 ...you know, if you're listed in here, the Board, whenever it  
3 sends out its decision, you have those options whether you're  
4 here or not. That's always been the case. That must have  
5 been a hearing on a permit application for disturbance of  
6 your surface somewhere.

7 RAYMOND E. SHELTON: Yeah, I think it was. It has  
8 been so long ago.

9 BENNY WAMPLER: Yeah. Even at that, you could have  
10 appealed it to the Board. Okay, you could have brought that  
11 to the Board, just so you know in the future if you have it  
12 occur, you could bring that to the Board because the Board  
13 can hear appeals of the inspector's decisions.

14 Board members have any questions, anything further?

15 MASON BRENT: I wanted to go back---.

16 BENNY WAMPLER: Yes.

17 MASON BRENT: ---just for one second to FF-38, on  
18 B-3 and E, I think we've got tract 1-B and we've got a note,  
19 "Individual interest yet to be determined." When are we  
20 going to get a determination on interest?

21 LESLIE K. ARRINGTON: I'll let Scott answer the  
22 question, but I think we're still trying to develop who all  
23 these people are.

24

--

1           SCOTT HODGES: The question with the interest, if I  
2 remember right, comes in these life estates. There was some  
3 weird language, it's not a true heirship. It's not like John  
4 Doe dies and it just evolves to his kids. They made deeds to  
5 each other. Some of them sold their interest to others, but  
6 reserved weird language, so there's some...there's questions  
7 as to what they kept and what they didn't keep. I think one  
8 of the things we're trying to find out is how many of those  
9 people with life estates are dead now.

10           MARK SWARTZ: Well, the title opinion, I'll just  
11 read part of it. I think it will give you...again, this is  
12 from Altizer, Walk & White. "There was a chancery cause of  
13 Sterling Ball versus Marvin Cline et al, provided the heirs  
14 for Lula Ball and the others for whom we had inadequate  
15 information. We enclose a copy of the court decree setting  
16 forth the owners of the subject property. The ownership  
17 interest may vary slightly depending on the interpretation  
18 given the reservation of Goldie Compton, and others, and  
19 Linwood Ball as to the nine acre mineral reservation in the  
20 deed to Sterling Ball and Claudia Ball. Additionally---."  
21 This is another problem now. "---we do not see where Goldie  
22 Ball Compton, Clayton Compton or Linwood C. Ball were parties  
23 to the partition suit. So all those numbers are probably  
24

1 wrong. As such, their interest must be calculated in the gas  
2 and oil ownership as shown in part II." Now, I don't know  
3 how close you are with Altizer in getting that resolved, but  
4 that's...it appears to me there is a significant dispute as  
5 to one, what a reservation means, and what it means that  
6 three people left out of a partition suit that should have  
7 been included. I think that's the explanation. On the other  
8 hand, to the extent you guys can make a decision, you  
9 probably need to make it sooner rather than later.

10 SCOTT HODGES: Yeah. Yeah.

11 MARKS SWARTZ: This, I think, is Mr. Brent's  
12 comment.

13 SCOTT HODGES: When I got somebody working what  
14 I'll try to do is take all the possible scenarios, all the  
15 different ways that you can calculate ownership and see how  
16 much we know for sure, no matter which way you go they do own  
17 this. You know, it may be they own a 1/91st or they could  
18 own a...oh, a 1/91st, 1/49th, or 1 200/8ths. See what is for  
19 sure and we can get them on pay on that part and just escrow  
20 the remaining fractions. But, again, we don't know how many  
21 people are still alive that have got these subject...these  
22 live estates that are subject to.

23 MARK SWARTZ: This title opinion is dated...this

24

--

1 supplemental title opinion is dated as of September 8th,  
2 2003. So it's not something that's been in our file for  
3 years.

4           SHARON PIGEON: September 8th?

5           SCOTT HODGES: Yes.

6           MARK SWARTZ: Of this year, yes.

7           SCOTT HODGES: What happened, when this one first  
8 came up and we were working on it, really nobody in the  
9 family wanted to talk to us because they were in the middle  
10 of this partition suit and they just said, "When we get the  
11 partition suit done, everything will be settled and  
12 everything will be cleared up." What they wound up doing  
13 was, the partition suit did not address this nine acres, the  
14 mineral part of it. It only did the surface and it left out  
15 some of the people that were in the family. So we got names  
16 now from the partition suit, but we're still having trouble  
17 getting anybody to talk to us about exactly what's left of  
18 it. This kind of...if I can say this, this is kind of one of  
19 those little things I'm sitting up here and wasn't saying  
20 anything and there was a question raised earlier about after  
21 the pooling orders are issued, you know, do we put any work  
22 into these and continue it. And I can tell you I've got a  
23 bunch of people, and I was telling her, you know, I've got

24

--

1 one girl that's working 100% nothing but her family. And  
2 that's one that a pooling has already been issued. We never  
3 stop. What happens to us is people stop talking to us or  
4 they won't give us anymore leads or infor...you know, we hit  
5 a road block, and just like in this case, you know, in  
6 September, we got more information to work off of, so now we  
7 got more leads to move forward. But we always, if anybody  
8 contacts us or we hear anything, we never stop.

9 BENNY WAMPLER: Mr. Brent, would you like a status  
10 report on this next month then?

11 MASON BRENT: Yeah, I think I would. Conceivably,  
12 this could go on for a pretty long time.

13 BENNY WAMPLER: Right.

14 MASON BRENT: I would just like to know, if you  
15 will, keep me posted as you work it out.

16 BENNY WAMPLER: Anything further? Any of you folks  
17 have anything further?

18 GARY EIDE: I've got a question. Les, on that ZZ-  
19 22, what was the percent remaining to be pooled? Has that  
20 changed?

21 MARK SWARTZ: It changed.

22 LESLIE K. ARRINGTON: It changed.

23 GARY EIDE: It was 5.3 before, and what is it now?

24

--

1           LESLIE K. ARRINGTON: It's...the original  
2 application it was 5.29018 and now it's 5.2750.

3           BENNY WAMPLER: Mr. Boyd, what was your home phone  
4 number so we can be sure to contact you?

5           CHARLES BOYD: It's 963-0949.

6           BENNY WAMPLER: 0949?

7           CHARLES BOYD: Yes.

8           BENNY WAMPLER: Any other questions from members of  
9 the Board?

10           (No audible response.)

11           BENNY WAMPLER: Is there a motion?

12           DONALD RATLIFF: Move that...I don't have all the  
13 docket numbers, but all the units that was in this group that  
14 was pooled together...put together, be approved, Mr.  
15 Chairman.

16           BENNY WAMPLER: We have a motion for approval. Is  
17 there a second?

18           MASON BRENT: Second.

19           BENNY WAMPLER: Motion and second. Any further  
20 discussion?

21           (No audible response.)

22           BENNY WAMPLER: All in favor, signify by saying  
23 yes.

24



1 (All members say yes.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. Thank you all.

5 We appreciate the comments you had. We understand a lot of

6 those were addressed when the General Assembly passed the

7 law, but a lot of times you have to keep pushing your

8 positions. Thank you.

9 We're going to recess for lunch.

10 (Off record.)

11 BENNY WAMPLER: The next item on the agenda is a

12 petition from Equitable Production Company for a well

13 location exception for proposed well V-501819, docket number

14 VGOB-03-1021-1198. We'll ask the parties that wish to

15 address the Board in this matter to come forward at this

16 time.

17 JIM KISER: Mr. Chairman, members of the Board, Jim

18 Kiser on behalf of Equitable Production Company. Our witness

19 in this matter and all the other matters before you today

20 will be Mr. Don Hall, and we'd ask that he be sworn at this

21 time.

22 (Witness is duly sworn.)

23 BENNY WAMPLER: The record will show there are no

24

--

1 others. You may proceed.

2

3

DON HALL

4 having been duly sworn, was examined and testified as  
5 follows:

6

DIRECT EXAMINATION

7 QUESTIONS BY MR. KISER:

8 Q. Mr. Hall, if you'd state your name for the  
9 Board, who you're employed by and in what capacity.

10 A. My name is Don Hall. I'm employed by  
11 Equitable Production as district landman.

12 Q. And we're seeking a location exception here  
13 for conventional well number V-501819. And do your  
14 responsibilities include the land involved in this unit and  
15 the surrounding area?

16 A. Yes.

17 Q. Are you familiar with the application that's  
18 been filed seeking a location exception for this well?

19 A. Yes.

20 Q. Have all interested parties been notified as  
21 required by Section 4(b) of the Virginia Gas and Oil Board  
22 regulations?

23 A. They have.

24

--

1                   Q.       Would you indicate for the Board the  
2 ownership of the oil and gas underlying the unit for well  
3 number V-501819?

4                   A.       Pine Mountain Oil and Gas owns the oil and  
5 gas 100%.

6                   Q.       We've just got one reciprocal well which is  
7 P-110, is that correct?

8                   A.       Yes.

9                   Q.       And does Equitable have the right to operate  
10 that reciprocal well?

11                  A.       Yes.

12                  Q.       And are there any correlative rights issues?

13                  A.       No.

14                  Q.       Okay, Mr. Hall, we don't have an exhibit  
15 because in this particular instance, I believe the reason for  
16 the exception is it's an active mining plan and the coal  
17 company is picking this location?

18                  A.       Yes. We're working with the coal company  
19 and they chose this location to avoid their operations in  
20 their (inaudible) Fork mine.

21                  Q.       In the event this location exception were  
22 not granted, would you project the estimated loss of reserves  
23 resulting in waste?

24

--

1 A. 550,000,000 cubic feet.

2 Q. And what is the total depth of the proposed  
3 well under the plan of development?

4 A. 5997 feet.

5 Q. Is it sufficient to penetrate and test the  
6 common sources of supply in the subject formation listed in  
7 the permit application?

8 A. Yes.

9 Q. Is the applicant requesting that this  
10 location exception cover conventional gas reserves to include  
11 the designated formations from the surface to the total depth  
12 drilled?

13 A. We are.

14 Q. And in your professional opinion, would the  
15 granting of this location exception be in the best interest  
16 for preventing waste, protecting correlative rights, and  
17 maximizing the recovery of the gas reserves underlining the  
18 unit for V-501819?

19 A. Yes.

20 JIM KISER: Nothing further of this witness at this  
21 time, Mr. Chairman.

22 BENNY WAMPLER: Questions from members of the  
23 Board?

24

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1 (No audible response.)

2 BENNY WAMPLER: Do you have anything further?

3 JIM KISER: Mr. Chairman, we'd ask that the

4 application be approved as submitted.

5 BENNY WAMPLER: Do we have a motion?

6 JAMES MCINTYRE: Motion to approve.

7 MASON BRENT: Second.

8 BENNY WAMPLER: Motion and second. Any further

9 discussion?

10 (No audible response.)

11 BENNY WAMPLER: All in favor, signify by saying

12 yes.

13 (All members except Donald Ratliff say yes.)

14 BENNY WAMPLER: Opposed, say no.

15 DONALD RATLIFF: I'll abstain, Mr. Chairman.

16 BENNY WAMPLER: Mr. Ratliff abstains. You have

17 approval.

18 The next item is a petition from Equitable

19 Production for pooling of coalbed methane unit VC-505228,

20 docket number VGOB-03-1021-1199. We'd ask the parties that

21 wish to address the Board in this matter to come forward at

22 this time.

23 JIM KISER: Again, Jim Kiser on behalf of Equitable

24

1 Production Company. Our witness again will be Mr. Don Hall.

2 BENNY WAMPLER: The record will show there are no  
3 others. You may proceed.

4

5

6

7

DON HALL

8

DIRECT EXAMINATION

9 QUESTIONS BY MR. KISER:

10 Q. Mr. Hall, if you'd again state your name for  
11 the Board, who you're employed by and in what capacity.

12 A. My name is Don Hall. I'm employed by  
13 Equitable Production as district landman.

14 Q. And again, your responsibilities include the  
15 land involved here and in the surrounding area?

16 A. Yes.

17 Q. And are you familiar with the application  
18 that's been filed seeking a pooling order for EPC well number  
19 VC-505228, which was dated September 5th, 2003?

20 A. Yes.

21 Q. Is Equitable seeking to force pool the  
22 drilling rights underlying the unit as depicted at Exhibit A,  
23 that being the plat to the application?

24

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1                   A.       Yes.

2                   Q.       Does Equitable own drilling rights in the  
3 unit involved here?

4                   A.       We do.

5                   Q.       Now, prior to filing the application, were  
6 efforts made to contact each of the respondents and an  
7 attempt made to work out a voluntary agreement regarding the  
8 development of the unit?

9                   A.       Yes.

10                  Q.       What is the interest at this time of  
11 Equitable in the gas estate within the unit?

12                  A.       We have 47.39% of the gas estate leased.

13                  Q.       And the interest of Equitable in the coalbed  
14 methane estate in the unit?

15                  A.       We have a 100% of the coalbed methane  
16 leased.

17                  Q.       And are all the unleased parties set out in  
18 Exhibit B-2?

19                  A.       Yes.

20                  Q.       Are you familiar with the ownership of  
21 drilling rights of parties other than Equitable underlying  
22 this unit?

23                  A.       Yes.

24  
~

1           Q.       And that is the 52.61% of the gas estate  
2 that remains unleased?

3           A.       That is correct.

4           Q.       And that is an unknown owner?

5           A.       Yes, it's the unknown owner...unknown heirs  
6 of G. W. Smith, Jr., who disappeared around the turn of the  
7 century.

8           Q.       And he will be force pooled on several  
9 occasions?

10          A.       He'll be force pooled on a couple other  
11 occasions, yes.

12          Q.       Were reasonable and diligent efforts made  
13 again, and sources checked to identify and locate these  
14 unknown heirs, including primary sources such as deed  
15 records, probate records, assessor's records, treasurer's  
16 records and secondary sources such as telephone directories,  
17 city directories, family and friends?

18          A.       Yes.

19          Q.       In your professional opinion, was due  
20 diligence exercised to locate each of the respondents named  
21 in Exhibit B?

22          A.       Yes.

23          Q.       Now, are the addresses set out in Exhibit B  
24



1 to the application are the last known addresses for the  
2 respondents?

3 A. They are.

4 Q. Are all the...are you asking the Board to  
5 force pool all unleased interests listed at Exhibit B-3?

6 A. That's correct.

7 Q. Are you familiar with the fair market value  
8 of drilling rights here and in the surrounding area?

9 A. Yes.

10 Q. Can you advise the Board as to what those  
11 are?

12 A. We pay a five dollar bonus, five year term,  
13 with one-eighth royalty.

14 Q. In your opinion, do the terms you testified  
15 to represent the fair market value of and fair and reasonable  
16 compensation to be paid for drilling rights within this unit?

17 A. They do.

18 Q. As to the respondents who remain unleased  
19 and are listed at Exhibit B-3, do you agree that they be  
20 allowed the following options with respect to their ownership  
21 interest within the unit: one, participation; two, a cash  
22 bonus of five dollars per net mineral acre, plus a one-eighth  
23 of eight-eighths royalty; or three, in lieu of a cash bonus,  
24

1 a one-eighth of eight-eighths royalty, a share in the operation  
2 of the well on a carried basis as carried operator under the  
3 following conditions: Such carried operator shall be  
4 entitled to his share of production of the tracts pooled  
5 accruing to his interest exclusive of any royalty or  
6 overriding royalty reserved from any leases, assignments  
7 thereof, or agreements relating thereto of such tracts but  
8 only after the proceeds applicable to f his share equal, A)  
9 300% of the share of such cost applicable to the interest of  
10 a carried operator of a leased tract or portion thereof; or  
11 B), 200% of the share of such cost applicable to the interest  
12 of the carried operator of an unleased tract or portion  
13 thereof?

14 A. Yes.

15 Q. Do you recommend that the order provide that  
16 the elections by respondents be in writing and sent to the  
17 applicant at Equitable Production Company, 1710 Pennsylvania  
18 Avenue, Charleston, West Virginia 25328, attention Melanie  
19 Freeman, Regulatory?

20 A. Yes.

21 JIM KISER: And if I'm not mistaken, I think,  
22 Sharon, particularly for your purposes, we've also been using  
23 a P. O. Box, and I don't think they want to use that anymore,

24

--

1 right?

2 A. No, we don't have that anymore.

3 JIM KISER: We're just going to go with the 1710  
4 Pennsylvania, and delete the P. O. Box.

5 Q. And should this be the address for all  
6 communications with the applicant concerning any force  
7 pooling order?

8 A. It should.

9 Q. Do you recommend that the order provide that  
10 if no written election is properly made by respondent, such  
11 respondent should be deemed to have elected the cash royalty  
12 option in lieu of participation?

13 A. Yes.

14 Q. Should unleased respondents be given 30 days  
15 from the date that the Board order is executed to file their  
16 written elections?

17 A. Yes.

18 Q. If an unleased respondent elects to  
19 participate, should they be given 45 days to pay the  
20 applicant for the respondent's proportionate share of well  
21 cost?

22 A. Yes.

23 Q. Does the applicant expect any party electing  
24

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1 to participate to pay in advance that party's share of  
2 completed well cost?

3 A. We do.

4 Q. Should the applicant be allowed 120 days  
5 following the recordation date of the Board order, and  
6 thereafter annually on that date until production is  
7 achieved, to pay or tender any cash bonus or delay rentals  
8 becoming due under the force pooling order?

9 A. Yes.

10 Q. Do you recommend that the order provide that  
11 if the respondent elects to participate but fails to pay  
12 their proportionate share of well cost satisfactory to the  
13 applicant for payment of those costs, the respondent elects  
14 to participate should be treated as having been withdrawn and  
15 void, and such respondent should be treated just as if no  
16 initial election had been filed under the force pooling  
17 order?

18 A. Yes.

19 Q. Do you recommend that the order provide that  
20 where a respondent elects to participate but defaults in  
21 regard to payment of well costs, any cash sum becoming  
22 payable to such respondent be paid within 60 days after the  
23 last date on which such respondent could have paid or made  
24

1 satisfactory arrangement for the payment of the cost?

2 A. Yes.

3 Q. In this particular case, we do have an

4 Exhibit E, and it represents an escrow situation for

5 conflicting claims of the coalbed methane?

6 A. That's correct.

7 Q. Therefore, the Board does need to establish

8 an escrow account for this unit?

9 A. Yes.

10 Q. And who should be named the operator under

11 any fore pooling order?

12 A. Equitable Production Company.

13 Q. And what is the total depth of the proposed

14 well under the plan of development?

15 A. 2393 feet.

16 Q. And the estimated reserves for this unit?

17 A. 350,000,000 cubic feet.

18 Q. Are you familiar with the AFE that we filed

19 as part of this application as Exhibit C?

20 A. Yes.

21 Q. Has it been reviewed, signed and submitted

22 to the Board?

23 A. It has.

24

1           Q.       Was it prepared by an engineering department  
2 knowledgeable in the preparation of AFEs and knowledgeable in  
3 regard to well cost in this particular area?

4           A.       Yes.

5           Q.       In your opinion, does it represent a  
6 reasonable estimate of the well cost?

7           A.       It does.

8           Q.       Would you state for the Board at this time  
9 both the dry hole cost and the completed well cost?

10          A.       The dry hole cost is \$98,077, and the  
11 completed well cost is \$231,104.

12          Q.       Do these costs anticipate a multiple  
13 completion?

14          A.       They do.

15          Q.       Does your AFE include a reasonable charge  
16 for supervision?

17          A.       Yes.

18          Q.       In your professional opinion, would the  
19 granting of this application be in the best interest of  
20 conservation, the prevention of waste and the protection of  
21 correlative rights?

22          A.       Yes.

23          JIM KISER: Nothing further of this witness at this

24

--

1 time, Mr. Chairman.

2 BENNY WAMPLER: Questions from members of the  
3 Board?

4 KEN MITCHELL: Question, Mr. Chairman. Mr. Kiser,  
5 in your list of places where you search to find the heirs of  
6 G. W. Smith, Jr., I may have not heard correctly, but did you  
7 list census, U. S. Census records?

8 JIM KISER: I don't believe we did. No.

9 KEN MITCHELL: I heard you list county records and  
10 friends, but I figured most of the friends were dead  
11 but...you know.

12 JIM KISER: No, I did not list Census.

13 KEN MITCHELL: Is that an alternate source where  
14 ...I mean, because every 10 years by our Constitution we have  
15 to do a census. Is that someplace you do plan to look?

16 A. I don't know that we could really find what  
17 we need there.

18 JIM KISER: If it were a situation more current, I  
19 think that would probably be helpful.

20 A. We're talking about 130 years ago probably,  
21 120 years ago.

22 JIM KISER: I think...I don't have the title in  
23 front of me, but my guess would be that G. W. Smith probably  
24

1 severed the coal and thought he probably severed everything,  
2 but it was a coal severance only and the oil and gas changes  
3 stopped with him. My guess is that deed was probably in the  
4 late 18 or 1900s.

5 A. Late 1800s.

6 JIM KISER: Late 1800s, 1880s. If it were an  
7 unknown heir that, you know, we had record of being in line  
8 of 60s, 70s or 80s, then something like that probably would  
9 be helpful. But going this far back, I mean, it just stops  
10 there. There's nothing else in the...as you run the grantor  
11 indexes forward, the grantee back, he never appears again.

12 A. I don't think...in this particular  
13 situation, I don't think he realized he even retained it. It  
14 was a mistake in his effort to convey the minerals, he didn't  
15 convey the oil and gas.

16 JIM KISER: He didn't properly convey everything.  
17 It was probably his intent to convey all the minerals, but he  
18 only conveyed the coal.

19 KEN MITCHELL: So what you're saying, this is an  
20 escrow account that may never...may never be drawn.

21 JIM KISER: It will be the State's money  
22 eventually, I'd say. We've probably got two or three other  
23 entities in the Equitable leasehold with the exact same

24

--



1 situation. This isn't the only---.

2 BENNY WAMPLER: Any other questions from members of  
3 the Board?

4 MASON BRENT: Have you filed your permit  
5 application?

6 JIM KISER: Just a second and I'll see.

7 BENNY WAMPLER: It's been issued.

8 JIM KISER: It's already been granted.

9 MASON BRENT: With a well location exception  
10 outside---?

11 JIM KISER: Yeah. Yeah, that's already been  
12 granted.

13 BENNY WAMPLER: Anything further?

14 JIM KISER: We'd ask that the application be  
15 approved as submitted, Mr. Chairman.

16 BENNY WAMPLER: Is there a motion?

17 KEN MITCHELL: So moved, Mr. Chairman.

18 JAMES MCINTYRE: Second.

19 BENNY WAMPLER: Motion and second. Any further  
20 discussion?

21 (No audible response.)

22 BENNY WAMPLER: All in favor, signify by saying  
23 yes.  
24  
~

1 (All members except Donald Ratliff say yes.)

2 BENNY WAMPLER: Opposed, say no.

3 DONALD RATLIFF: I'll abstain, Mr. Chairman.

4 BENNY WAMPLER: One abstention, Mr. Ratliff. Thank  
5 you.

6 DONALD RATLIFF: Mr. Chairman, I need to recuse  
7 myself from 3, 4, 5, 16, 17, 19 and 20.

8 BENNY WAMPLER: Okay. Next is a petition from  
9 Equitable Production Company for pooling of coalbed methane  
10 unit VC-4492, docket number VGOB-03-1021-1200. We'd ask the  
11 parties that wish to address the Board in this matter to come  
12 forward at this time.

13 JIM KISER: Mr. Chairman, again, Jim Kiser and Don  
14 Hall on behalf of Equitable Production Company. Before we  
15 start with our testimony at this point, I'll just point out  
16 to you that earlier today you did see a couple sitting right  
17 here, that they were here for this particular hearing. They  
18 were Lynn Presley and his wife. Lynn is the son of Nadine  
19 Presley, who is an undivided interest owner in tract four.  
20 Their big concern was that...and this...we're finding this  
21 happen a lot now, is that she is in a nursing home and any  
22 money that she would receive from Equitable's operation and  
23 proceeds from the production, they didn't want to go to her  
24

1 because of the---.

2 BENNY WAMPLER: State would get it?

3 JIM KISER: Yeah, exactly. Or the feds, whoever.

4 And so we explained to them that this is a conflicting  
5 situation and an escrow situation, but that they may also  
6 want to have him...her ...Lynn, as guardian for her, execute  
7 a deed on her behalf, you know, going ahead and convey the  
8 property to the kids so they don't have that situation. I  
9 think they ran out of here to go do that. They're going to  
10 send a copy of that to Don and if we have it by the time we  
11 go through the supplemental process, the ownership on that  
12 particular interest will change.

13

14 DON HALL

15 DIRECT EXAMINATION

16 QUESTIONS BY MR. KISER:

17 Q. Mr. Hall, again...well, we know your name  
18 and who you work for. Do your responsibilities include the  
19 land involved here and in the surrounding area?

20 A. They do.

21 Q. Are you familiar with the application we  
22 filed seeking a pooling order for EPC well number VC-4492,  
23 which was dated September 12th, 2003?

24

--

1           A.       Yes.

2           Q.       Is Equitable seeking to force pool the  
3 drilling rights underlying the unit as depicted at Exhibit A,  
4 that being plat to the application?

5           A.       We are.

6           Q.       Does Equitable own drilling rights in the  
7 unit involved here?

8           A.       Yes.

9           Q.       Prior to filing the application, were  
10 efforts made to contact each of the respondents and an  
11 attempt made to work out an agreement regarding the  
12 development of the unit?

13          A.       Yes.

14          Q.       At this time, what is the interest of  
15 Equitable in the gas estate within the unit?

16          A.       We have 96.889% of the gas estate leased.

17          Q.       And the interest of Equitable in the CBM  
18 estate?

19          A.       We have a 99.0189% leased.

20          Q.       And are all the unleased parties set out in  
21 Exhibit B-3?

22          A.       Yes.

23          Q.       Are you familiar with the ownership of  
24

1 drilling rights of parties other than Equitable underlying  
2 this unit?

3 A. Yes.

4 Q. And what is the interest in the gas estate  
5 that remains unleased?

6 A. 3.111%.

7 Q. And the interest in the CBM estate that  
8 remains unleased?

9 A. .98064%.

10 Q. Now, again in this particular well, we have  
11 one small interest in tract one that is unknown, Lola Barton?

12 A. Yes.

13 Q. And did you make...were reasonable and  
14 diligent efforts made, and did you check with these other  
15 Bartons who are listed as interest owning in the tract to  
16 find out what happened to him?

17 A. Yes.

18 Q. And you weren't able to get any information  
19 regarding an address or his whereabouts?

20 A. We were not.

21 Q. In your professional opinion, was due  
22 diligence exercised to locate each of the respondents named  
23 herein?

24

--

1           A.       Yes.

2           Q.       Are the addresses set out in Exhibit B to  
3 the application the last known addresses for the respondents?

4           A.       They are.

5           Q.       Are you requesting the Board to force pool  
6 all the unleased interests as listed in Exhibit B-3?

7           A.       Yes.

8           Q.       Are you familiar with the fair market value  
9 of drilling rights in the unit here and in the surrounding  
10 area?

11          A.       Yes.

12          Q.       Could you again advise the Board as to what  
13 those are?

14          A.       We pay a five dollar bonus, five year term,  
15 with one-eighth royalty.

16          Q.       In your professional opinion, do the terms  
17 you just testified to represent the fair market value of and  
18 fair and reasonable compensation to be paid for drilling  
19 rights within this unit?

20          A.       They do.

21          JIM KISER: At this time, Mr. Chairman, as far as  
22 the various statutory election options available to the  
23 unleased parties that we're attempting to pool here today and  
24

1 our time frames in which to make those elections, and the  
2 ramifications of those elections that was taken previously in  
3 the matter before you under VGOB docket number 03-1021-1199  
4 be incorporated for purposes this hearing.

5 BENNY WAMPLER: They will be incorporated.

6 Q. Mr. Hall, we do need to establish an escrow  
7 account for this unit today, is that correct?

8 A. Yes, we do.

9 Q. And who should be named the operator under  
10 any fore pooling order?

11 A. Equitable Production Company.

12 Q. Total depth of the well under the plan of  
13 development?

14 A. It's 1847 feet.

15 Q. Estimated reserves for the unit?

16 A. 300,000,000 cubic feet.

17 Q. Has an AFE been reviewed, signed and  
18 submitted to the Board as Exhibit C to the application?

19 A. It has.

20 Q. Was it prepared by an engineering department  
21 knowledgeable in the preparation of AFEs and knowledgeable in  
22 regard to well cost in this area?

23 A. Yes.

24

--

1           Q.       In your opinion, does it represent a  
2 reasonable estimate of the well cost?

3           A.       It does.

4           Q.       What is the dry hole cost and the completed  
5 well cost for this particular well?

6           A.       The dry hole cost is \$87,472, and the  
7 completed well cost is \$203,967.

8           Q.       Do these costs anticipate a multiple  
9 completion?

10          A.       Yes.

11          Q.       Does your AFE include a reasonable charge  
12 for supervision?

13          A.       It does.

14          Q.       In your professional opinion, would the  
15 granting of this application be in the best interest of  
16 conservation, the prevention of waste and the protection of  
17 correlative rights?

18          A.       Yes.

19          JIM KISER: Nothing further of this witness at this  
20 time, Mr. Chairman.

21          BENNY WAMPLER: Questions from members of the  
22 Board?

23                (No audible response.)

24

--



1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: We'd ask that the application be

3 approved as submitted.

4           BENNY WAMPLER: Is there a motion?

5           JAMES MCINTYRE: Motion to approve.

6           KEN MITCHELL: Second.

7           BENNY WAMPLER: Motion and second. Any further

8 discussion?

9           (No audible response.)

10          BENNY WAMPLER: All in favor, signify by saying

11 yes.

12          (All members except Donald Ratliff say yes.)

13          BENNY WAMPLER: Opposed, say no. The abstention of

14 Mr. Ratliff. The next item on the agenda is a petition from

15 Equitable Production Company for a well location exception

16 for proposed well V-550450, docket number VGOB-03-1021-1211.

17 We'll ask the parties that wish to address the Board in this

18 matter to come forward at this time. That's number sixteen

19 on your agenda.

20          JIM KISER: Mr. Chairman, members of the Board,

21 again, Mr. Kiser and Mr. Hall on behalf of Equitable

22 Production Company. This is very similar to the first

23 location exception that we did. The coal company chose the

24

1 location to avoid a deep mine 27, but I'll let Mr. Hall  
2 testify to that.

3

4

DON HALL

5

DIRECT EXAMINATION

6 QUESTIONS BY MR. KISER:

7 Q. If you could again tell us whether or not  
8 your responsibilities include the land involved here and in  
9 the surrounding area?

10 A. They do.

11 Q. And you are familiar with this application  
12 that we have filed seeking a location exception for well V-  
13 550450?

14 A. Yes.

15 Q. Have all interested parties been notified as  
16 required by Section 4(b) of the Virginia Gas and Oil Board  
17 regulations?

18 A. They have.

19 Q. Would you indicate for the Board the  
20 ownership of the oil and gas underlying the unit for well  
21 number V-550450?

22 A. Pine Mountain Oil and Gas owns a 100%.

23 Q. We're seeking an exception from two wells,

24

--

1 P-391 and P-127. Does Equitable have the right to operate  
2 both those reciprocal wells?

3 A. Yes, we do.

4 Q. And are there any correlative rights issues?

5 A. No.

6 Q. Could you explain for the Board why we are  
7 seeking this exception?

8 A. Again, this was a location chosen by the  
9 coal company to least interfere with their deep mine number  
10 27.

11 Q. What is the total depth of the proposed well  
12 under the plan of development?

13 A. 6215 feet.

14 Q. In the event this location exception were  
15 not granted, would you project the estimated loss of reserves  
16 resulting in waste?

17 A. 400,000,000 cubic feet.

18 Q. Are you requesting this location exception  
19 cover conventional gas reserves to include the designated  
20 formations from the surface to the total depth drilled?

21 A. Yes.

22 Q. And in your professional opinion, would the  
23 granting of this location exception be in the best interest

24

--

1 for preventing waste, protecting correlative rights, and  
2 maximizing the recovery of the gas reserves underlining the  
3 unit for V-550450?

4 A. Yes.

5 JIM KISER: Nothing further of this witness at this  
6 time, Mr. Chairman.

7 BENNY WAMPLER: Questions from members of the  
8 Board?

9 KEN MITCHELL: One question, Mr. Chairman.

10 BENNY WAMPLER: Mr. Mitchell.

11 KEN MITCHELL: Mr. Kiser, on your notice of  
12 hearing, on the front it says, "Well location exception."  
13 Then the second document is before the Board, a Virginia Gas  
14 and Oil Board application, and on page two of application,  
15 item number four, "Relief sought," just above your  
16 signature.

17 JIM KISER: Uh-huh.

18 KEN MITCHELL: It says, "applicant requests VGOB to  
19 enter an order to enable well so and so to be drilled as  
20 depicted on the plat." Wouldn't that be any well you ever  
21 presented?

22 JIM KISER: No, because this is an exception to the  
23 state wide spacing.

24

--

1           KEN MITCHELL: But I'm saying, shouldn't the relief  
2 sought be well exception distance?

3           JIM KISER: No, I guess if we turn to the relief  
4 sought on a force pooling application, there we're seeking to  
5 establish a unit and pool any unleased parties. It would be  
6 a different relief.

7           KEN MITCHELL: Okay. But...but to me, and I'm not  
8 an attorney, forgive me. I don't want to be, but that's  
9 okay. But...I'm just saying, the request would enable a well  
10 to be drilled as depicted.

11          JIM KISER: Well, see, normally the permit would  
12 take care of that, I guess would be my answer to that. And  
13 here we're seeking an exception to---.

14          KEN MITCHELL: To two of the wells.

15          JIM KISER: Yeah. Well, seeking an exception to  
16 state wide spacing.

17          KEN MITCHELL: Okay. Okay.

18          JIM KISER: So in order to do that, we're asking  
19 that it be drilled in a spot that does not comply with state  
20 wide spacing.

21          KEN MITCHELL: You answered my question.

22          BENNY WAMPLER: Any other questions?

23          (No audible response.)

24

--

1           BENNY WAMPLER: Do you have anything further?

2           JIM KISER: We'd ask that the application be

3 approved as submitted, Mr. Chairman.

4           BENNY WAMPLER: Is there a motion?

5           KEN MITCHELL: Motion.

6           JIM MCINTYRE: Second to approve.

7           BENNY WAMPLER: Second. Any further discussion?

8           (No audible response.)

9           BENNY WAMPLER: All in favor, signify by saying

10 yes.

11           (All signify say yes except Donald Ratliff.)

12           BENNY WAMPLER: Opposed, say no.

13           (No audible response.)

14           BENNY WAMPLER: You have approval. The next item

15 on the agenda is a petition from Equitable Production Company

16 for a well location exception for proposed well V-550449,

17 docket number VGOB-03-1021-1212. We'd ask the parties that

18 wish to address the Board in this matter to come forward at

19 this time.

20           JIM KISER: Mr. Chairman and members of the Board,

21 again, Jim Kiser and Mr. Hall on behalf of Equitable

22 Production Company. Our reason for this one is going to be

23 exactly the same as the reason for the previous well 550450.

24

1 The coal company has picked this location in order to, once  
2 again, avoid their operations on deep mine 27. This must be  
3 real close to that other well.

4

5

6

DON HALL

7

DIRECT EXAMINATION

8 QUESTIONS BY MR. KISER:

9 Q. Do your responsibilities include the land  
10 involved here and in the surrounding area?

11 A. Yes.

12 Q. Are you familiar with the application that's  
13 we have filed seeking a location exception for this well?

14 A. Yes.

15 Q. Have all interested parties been notified as  
16 required by Section 4(b) of the Virginia Gas and Oil Board  
17 regulations?

18 A. They have.

19 Q. Would you again indicate for the Board the  
20 ownership of the oil and gas underlying the unit for well  
21 number V-550449?

22 A. Pine Mountain Oil and Gas owns a 100%.

23 Q. And here we're just seeking an exception  
24

--

1 from one well which is---.

2 A. P-85.

3 Q. P-85. And does Equitable have the right to

4 operate that reciprocal well?

5 A. We do.

6 Q. And are there any correlative rights issues?

7 A. No.

8 Q. Again could you explain for the Board why

9 we're having to seek this exception?

10 A. Again, this was chosen by the coal company

11 to have the least impact on their deep mine number 27.

12 Q. And the total depth of this proposed well?

13 A. 6525 feet.

14 Q. In the event this location exception were

15 not granted, would you project the estimated loss of reserves

16 resulting in waste?

17 A. 500,000,000 cubic feet.

18 Q. Is the applicant requesting that this

19 location exception cover conventional gas reserves to include

20 the designated formations from the surface to the total depth

21 drilled?

22 A. Yes.

23 Q. In your professional opinion, would the

24



1 granting of this location exception be in the best interest  
2 for preventing waste, protecting correlative rights, and  
3 maximizing the recovery of the gas reserves underlying the  
4 unit for V-550449?

5 A. Yes.

6 JIM KISER: Nothing further of this witness at this  
7 time, Mr. Chairman.

8 BENNY WAMPLER: Questions from members of the  
9 Board?

10 (No audible response.)

11 BENNY WAMPLER: Do you have anything further?

12 JIM KISER: We'd ask that the application be  
13 approved as submitted.

14 BENNY WAMPLER: Is there a motion?

15 JAMES McINTYRE: Motion to approve.

16 KEN MITCHELL: Second.

17 BENNY WAMPLER: Second. Any further discussion?

18 (No audible response.)

19 BENNY WAMPLER: All in favor, signify by saying  
20 yes.

21 (No audible response.)

22 BENNY WAMPLER: Opposed, say no.

23 (No audible response.)

24

--

1           BENNY WAMPLER: You have approval. The next item  
2 on the agenda is a petition from Equitable Production Company  
3 for a well location exception for proposed well V-502719,  
4 docket number VGOB-03-1021-1213. We'd ask the parties that  
5 wish to address the Board in this matter to come forward at  
6 this time.

7           JIM KISER: Mr. Chairman, again, Jim Kiser and Don  
8 Hall on behalf of Equitable Production Company. We may have  
9 a situation here where one of your Board members may need to  
10 recuse himself from this particular hearing.

11           JIM MCINTYRE: I recuse myself.

12           BENNY WAMPLER: You're back on for this one.

13           DONALD RATLIFF: I'm back on this.

14           JIM KISER: We need you back in. Substitution.

15           BENNY WAMPLER: Mr. McIntyre is recused and Mr.  
16 Ratliff is back in.

17

18                           DON HALL

19                           DIRECT EXAMINATION

20   QUESTIONS BY MR. KISER:

21           Q.       Mr. Hall, if you'd let us know whether or  
22 not your responsibilities include the land involved in this  
23 unit and the surrounding area?

24

--

1           A.       They do.

2           Q.       Are you familiar with the application that  
3 we've filed seeking a location exception for well V-502719?

4           A.       Yes.

5           Q.       Have all interested parties been notified as  
6 required by Section 4(b) of the Virginia Gas and Oil Board  
7 regulations?

8           A.       They have.

9           Q.       Would you indicate at this time for the  
10 Board the ownership of the oil and gas underlying the unit  
11 for well number V-502719?

12          A.       Penn Virginia Oil and Gas Corporation owns  
13 92.99% and Equitable Production Company owns 7.01%.

14          Q.       And on this particular situation we  
15 have---.

16          A.       Three.

17          Q.       We're stepping from three different wells,  
18 three reciprocal wells, P...well, I'll go clockwise, P-366,  
19 V-2338 and V-2349. Does Equitable have the right to operate  
20 all those reciprocal wells?

21          A.       We do.

22          Q.       And are there any correlative rights issues?

23          A.       No.

24

1                   Q.        Could you explain for the Board our reason  
2 for seeking this exception?

3                   A.        This well was chosen, this spot, a number of  
4 years ago as part of the U. S. Forest Service, EIS, they  
5 chose that location to put the least impact on the Forest  
6 Service surface. If I'm not mistaken, I think Mr. McIntyre  
7 may have been the one that chose it.

8                   Q.        This has been a location ever since?

9                   A.        Yes. It's been on---.

10                  Q.        It's been on the books for a long time?

11                  A.        Yes, right.

12                  Q.        And the total depth of the proposed well  
13 under the plan of development?

14                  A.        5371 feet.

15                  Q.        Could you project the estimated loss of  
16 reserves resulting in waste in the event the location  
17 exception were not granted?

18                  A.        375,000,000 cubic feet.

19                  Q.        Are you requesting that this location  
20 exception cover conventional gas reserves to include the  
21 designated formations from the surface to the total depth  
22 drilled?

23                  A.        Yes.

24

--

1           Q.       And in your professional opinion, would the  
2 granting of this location exception be in the best interest  
3 for preventing waste, protecting correlative rights, and  
4 maximizing the recovery of the gas reserves underlining the  
5 unit for 50...V-502719?

6           A.       Yes.

7           JIM KISER:   Nothing further of this witness at this  
8 time, Mr. Chairman.

9           BENNY WAMPLER:   Questions from members of the  
10 Board?

11                   (No audible response.)

12           BENNY WAMPLER:   You said 5371 on the total depth?

13           A.       5371 and...yes, 5371.

14           BENNY WAMPLER:   Other questions?

15                   (No audible response.)

16           BENNY WAMPLER:   Do you have anything further?

17           JIM KISER:   Mr. Chairman, we'd ask that the  
18 application be approved as submitted.

19           BENNY WAMPLER:   Do we have a motion?

20           DONALD RATLIFF:   So moved, Mr. Chairman.

21           BENNY WAMPLER:   Motion to approve.

22           KEN MITCHELL:   Second.

23           BENNY WAMPLER:   Second.   Any further discussion?

24

--

1 (No audible response.)

2 BENNY WAMPLER: All in favor, signify by saying  
3 yes.

4 (No audible response.)

5 BENNY WAMPLER: Opposed, say no.

6 (No audible response.)

7 BENNY WAMPLER: You have approval. The next item  
8 is a petition from Equitable Production for pooling of  
9 conventional gas unit V-505251, docket number VGOB-03-1021-  
10 1214. We'd ask the parties that wish to address the Board in  
11 this matter to come forward at this time.

12 JIM KISER: Mr. Chairman and members of the Board,  
13 again, Jim Kiser and Mr. Hall.

14

15

16 DON HALL

17 DIRECT EXAMINATION

18 QUESTIONS BY MR. KISER:

19 Q. Mr. Hall, do your responsibilities include  
20 the land involved here and in the surrounding area?

21 A. They do.

22 Q. And are you familiar with our...Equitable's  
23 application seeking the establishment of the drilling unit

24

--

1 and the pooling of any unleased interests in the unit for EPC  
2 well V-505251, which was dated September 19th, 2003?

3 A. Yes.

4 Q. Does Equitable own drilling rights in the  
5 unit involved here?

6 A. We do.

7 Q. Prior to filing the application, were  
8 efforts made to contact each of the respondents and an  
9 attempt made to work out an agreement regarding the  
10 development of the unit?

11 A. Yes.

12 Q. What is the interest under lease to  
13 Equitable within the unit?

14 A. We have 76.48% of the unit under lease.

15 Q. Are you familiar with the ownership of  
16 drilling rights of parties other than Equitable underlying  
17 this unit?

18 A. Yes.

19 Q. And what is that percentage?

20 A. It's 23.52% unleased.

21 Q. And subsequent to the filing of the  
22 application, that's sort of a big amount, subsequent to the  
23 filing of the application, do you continue to attempt to  
24

--

1 reach an agreement---?

2 A. Yes, we do.

3 Q. ---with the respondents?

4 A. Yes.

5 Q. But as a result of those efforts, you have

6 not been successful in acquiring any additional leases?

7 A. No, we have not.

8 Q. Are all unleased parties set out in Exhibit

9 B-3/

10 A. Yes.

11 BENNY WAMPLER: Let me ask you a question while

12 he's going to the next one regarding your ongoing efforts.

13 How long have you been in the process of working this

14 petition up, or attempting to lease these people? You make

15 two or three passes at them and they don't want to sign a

16 voluntary lease, then that's what the statute is here for.

17 A. It takes a fairly lengthy time to identify

18 everybody in these small tracts and so forth.

19 Q. We don't have any unknowns in this unit, do

20 we?

21 A. No.

22 Q. In your professional opinion, was due

23 diligence exercised to locate each of the respondents named

24



1 in Exhibit B?

2 A. Yes.

3 Q. And are the addresses set out in Exhibit B  
4 to the application are the last known addresses for the  
5 respondents?

6 A. They are.

7 Q. Are you asking this Board to force pool all  
8 unleased interests listed in Exhibit B-3?

9 A. Yes.

10 Q. Are you familiar with the fair market value  
11 of drilling rights in the unit here and in the surrounding  
12 area?

13 A. Yes.

14 Q. Can you advise the Board as to what those  
15 are?

16 A. Five dollar bonus, five year term, and a  
17 one-eighth royalty.

18 Q. In your opinion, do the terms you testified  
19 to represent the fair market value of and fair and reasonable  
20 compensation to be paid for drilling rights within this unit?

21 A. They do.

22 MR. KISER: Mr. Chairman, at this time, again I'd  
23 ask that the testimony taken in VGOB docket number 03-1021-

24

--

1 1199 regarding statutory election options afforded the  
2 unleased parties and their time lines and ramifications of  
3 those time lines be incorporated into this hearing.

4 BENNY WAMPLER: They'll be incorporated.

5 Q. Mr. Hall, I think we previously stated that  
6 because these are conventional wells, we don't have a  
7 conflicting claimant situation. There are no unknown or  
8 unlocateable owners, that we do not need the Board to  
9 establish an escrow account for this unit, is that correct?

10 A. That's correct.

11 Q. And who should be named the operator under  
12 any force pooling order?

13 A. Equitable Production Company.

14 Q. And what is the total depth of the proposed  
15 well under the plan of development?

16 A. 5713 feet.

17 Q. And is the applicant requesting the force  
18 pooling of conventional gas reserves not only to include the  
19 designated formations but any other formations excluding coal  
20 formations which may be between those formations designated  
21 from the total ...excuse me, from the surface to the total  
22 depth drilled?

23 A. Yes.

24

--

1                   Q.       And what are the estimated reserves for this  
2 unit?

3                   A.       400,000,000 cubic feet.

4                   Q.       Has an AFE been reviewed, signed and  
5 submitted to the Board as Exhibit C to the application?

6                   A.       It has.

7                   Q.       Was that AFE prepared by an engineering  
8 department knowledgeable in the preparation of AFEs, and in  
9 particular, knowledgeable in regard to well cost in this  
10 particular area?

11                  A.       Yes.

12                  Q.       Does it represent a reasonable estimate, in  
13 your opinion, of the well cost?

14                  A.       It does.

15                  Q.       Would you state for the Board both the dry  
16 hole cost and the completed well cost of this well?

17                  A.       The dry hole cost is \$178,294, and the  
18 completed well cost is \$295,797.

19                  Q.       Do these costs anticipate a multiple  
20 completion?

21                  A.       They do.

22                  Q.       Does your AFE include a reasonable charge  
23 for supervision?

24

1           A.       Yes.

2           Q.       In your professional opinion, would the  
3 granting of this application be in the best interest of  
4 conservation, the prevention of waste and the protection of  
5 correlative rights?

6           A.       Yes.

7           JIM KISER: Nothing further of this witness at this  
8 time, Mr. Chairman.

9           BENNY WAMPLER: Questions from members of the  
10 Board?

11           (No audible response.)

12           BENNY WAMPLER: Anything further?

13           JIM KISER: Mr. Chairman, we'd ask that the  
14 application be approved as submitted.

15           BENNY WAMPLER: Is there a motion?

16           MASON BRENT: So moved.

17           KEN MITCHELL: Second.

18           BENNY WAMPLER: Motion and second. Any further  
19 discussion?

20           (No audible response.)

21           BENNY WAMPLER: All in favor, signify by saying  
22 yes.

23           (All members say yes, but James McIntrye.)

24

1           BENNY WAMPLER: Opposed, say no.

2           (No audible response.)

3           BENNY WAMPLER: You have one abstention. The next  
4 item on the agenda is a petition from Equitable Production  
5 Company for pooling of convention gas unit V-550323, docket  
6 number VGOB-03-1021-1215. We'd ask the parties that wish to  
7 address the Board in this matter to come forward at this  
8 time.

9           JIM KISER: Mr. Chairman, members of the Board, Jim  
10 Kiser and Don Hall again on behalf of Equitable Production  
11 Company.

12

13                           DON HALL

14                           DIRECT EXAMINATION

15   QUESTIONS BY MR. KISER:

16           Q.       Mr. Hall, if you would again state your name  
17 for the Board, who you're employed by and in what capacity.

18           A.       Don Hall. I'm employed by Equitable  
19 Production as district landman.

20           Q.       Are you familiar with the application we  
21 filed seeking the establishment of a unit, seeking to pool  
22 any unleased interest for EPC well number VC-550323, which  
23 was dated September 19th, 2003?

24

--

1           A.       Yes.

2           Q.       Is Equitable seeking to force pool the  
3 drilling rights underlying the unit as depicted at Exhibit A,  
4 that being plat to the application?

5           A.       We are.

6           Q.       Does Equitable own drilling rights in the  
7 unit involved here?

8           A.       We do.

9           Q.       Prior to filing the application, were  
10 efforts made to contact each of the respondents listed and an  
11 attempt made to work out a voluntary agreement?

12          A.       Yes.

13          Q.       What is the interest of Equitable under  
14 lease in the gas estate in the unit?

15          A.       We have 28.54%.

16          Q.       And are all the unleased parties set out in  
17 Exhibit B-3?

18          A.       They are.

19          Q.       Are you familiar with the ownership of  
20 drilling rights of parties other than Equitable underlying  
21 this unit?

22          A.       Yes.

23          Q.       And that is the interest in the estate that  
24

1 remains unleased at this time?

2           A.       71.46%.

3           Q.       Can you explain that?

4           A.       As we discussed in a previous hearing, the

5 G. W. Smith ...unknown heirs of G. W. Smith are the 71.46%

6 that's unleased.

7           Q.       And again, we made reasonable and diligent

8 efforts and did everything we could to locate the unknown

9 heirs of G. W. Smith, Jr.?

10          A.       That's correct.

11          BENNY WAMPLER: Where was he located when he

12 disappeared?

13          A.       He was in Dickenson County. Of course,

14 there's a lot of Smiths in Dickenson County. I can't

15 remember exactly what...where he resided.

16          BENNY WAMPLER: Go ahead.

17          Q.       In your professional opinion, was due

18 diligence exercised to locate each of the respondents named

19 herein?

20          A.       Yes.

21          Q.       And just to kind of help the Board members

22 because I know this is a pretty odd situation, particularly

23 for us, but by Statute, for a conventional well you are

24

1 allowed to avail yourself of this process of force pooling  
2 statute process as long as you have at least 25% of the unit  
3 under lease?

4 A. (No audible response.)

5 Q. Are you requesting the Board to force pool  
6 all unleased interests listed Exhibit B-3?

7 A. Yes, sir.

8 Q. Are you familiar with the fair market value  
9 of drilling rights in the unit here and the surrounding area?

10 A. Yes, sir.

11 Q. Can you advise the Board as to what those  
12 are?

13 A. It's a five dollar bonus, five year term,  
14 with one-eighth royalty.

15 Q. In your opinion, do the terms you testified  
16 to represent the fair market value of and fair and reasonable  
17 compensation to be paid for drilling rights within this unit?

18 A. They do.

19 JIM KISER: Again, Mr. Chairman, at this time I'd  
20 ask that the testimony regarding the statutory election  
21 options that was taken in 03-1021-1199 be incorporated for  
22 purpose of this hearing.

23 BENNY WAMPLER: It will be incorporated.

24

--



1           Q.     Mr. Hall, obviously we do need to establish  
2 an escrow account in this particular case?

3           A.     That's correct.

4           Q.     And who should be named the operator under  
5 the fore pooling order?

6           A.     Equitable Production Company.

7           Q.     And the total depth of the proposed well  
8 under the plan of development?

9           A.     6130 feet.

10          Q.     And the estimated reserves for the unit?

11          A.     250,000,000 cubic feet.

12          Q.     Has an AFE been reviewed, signed and  
13 submitted to the Board as an Exhibit C?

14          A.     It has.

15          Q.     And does it represent a reasonable estimate,  
16 in your opinion, of the well cost for this well?

17          A.     Yes.

18          Q.     And what are those costs?

19          A.     The dry hole costs are \$185,480, and the  
20 completed well cost is \$311,860.

21          Q.     Do these costs anticipate a multiple  
22 completion?

23          A.     They do.

24

1 Q. Does your AFE include a reasonable charge  
2 for supervision?

3 A. Yes.

4 Q. In your professional opinion, would the  
5 granting of this application be in the best interest of  
6 conservation, the prevention of waste and the protection of  
7 correlative rights?

8 A. Yes.

9 JIM KISER: Nothing further of this witness at this  
10 time, Mr. Chairman.

11 BENNY WAMPLER: Questions from members of the  
12 Board?

13 BENNY WAMPLER: I'm assuming you put this in under  
14 (inaudible) search or something like that?

15 A. Yeah, we just bring that up.

16 BENNY WAMPLER: Would you have any way of  
17 identifying whether or not it's actually G. W. Smith, Jr. if  
18 you found one in Dickenson County? I mean, do you have a  
19 social security number or anything that ties you to---?

20 A. That was before social security.

21 JIM KISER: Just have to work backwards and try to  
22 get an affidavit from somebody.

23 A. Yeah, you just have to try to find somebody  
24

1 that knew somebody that knew him and it's...you know, it's  
2 such a long time ago that there's not many people around  
3 that's going to be able to give you an affidavit or anything.

4 SHARON PIGEON: Have you tried genealogy web sites?

5 A. We have a library of genealogy books in our  
6 office that we use for that purpose. We...our people also  
7 use the Internet a lot.

8 SHARON PIGEON: Those are sometimes more  
9 (inaudible).

10 BENNY WAMPLER: Other questions from members of the  
11 Board?

12 JAMES McINTYRE: I have a question for my own  
13 personal edification.

14 BENNY WAMPLER: Yes.

15 JIM McINTYRE: That would be...what is the time  
16 span in the escrow account before State---?

17 BENNY WAMPLER: We don't know. We haven't  
18 determined that yet. We're going to meet with folks because  
19 this is a potentially unique type account, that we're going  
20 to meet with them sometime over the next six months and find  
21 out what the criteria will be, when it escheats to the State,  
22 et cetera, because there could be monies out there now that  
23 are eligible to escheat to the State.

24

--

1           JIM KISER: I'd say there are.

2           MASON BRENT: I think it's seven years.

3           JIM KISER: I think normally the escheat statutes  
4 are seven years.

5           SHARON PIGEON: It's five.

6           JIM KISER: Five.

7           BENNY WAMPLER: We may need to do some research on  
8 it. We just haven't met with the folks that are in charge of  
9 it and we plan to do that.

10          DON HALL: Doesn't the law refer to a specific  
11 section of the Code that sets it at five years?

12          JIM KISER: No, it doesn't. I think most of your  
13 dormant mineral statutes are seven years because there's only  
14 three of those, I think.

15          DON HALL: Well, this is really not dormant in the  
16 mineral statute.

17          JIM KISER: Well, somewhat though.

18          SHARON PIGEON: Well, this hasn't come up before,  
19 obviously, in our act, so some other opinions would be  
20 weighed on it.

21          BENNY WAMPLER: Straight look at it appears five  
22 years. We've certainly got some eligible, but until we meet  
23 and talk about the uniqueness of this account, it's  
24

1 intricacies and what have you, it may or may not be unique.  
2 But all the intricacies of the account itself, we're not  
3 going to, ourselves, just say this needs to go. We'll let  
4 them make that determination.

5           SHARON PIGEON: What would trigger the five years  
6 running and so on.

7           JIM KISER: Need to propose an amendment to that  
8 statute, make sure that your department gets the money.

9           SHARON PIGEON: We need to work on that.

10          BENNY WAMPLER: Any other questions from members of  
11 the Board?

12           (No audible response.)

13          BENNY WAMPLER: Do you have anything further?

14          JIM KISER: We'd ask that the application be  
15 approved as submitted.

16          BENNY WAMPLER: Is there a motion?

17          JIM MCINTYRE: Motion to approve.

18          KEN MITCHELL: Second.

19          BENNY WAMPLER: Motion and second. Any further  
20 discussion?

21           (No audible response.)

22          BENNY WAMPLER: All in favor, signify by saying  
23 yes.  
24

1 (All members say yes, except for Donald Ratliff.)

2 BENNY WAMPLER: Opposed, say no.

3 (No audible response.)

4 BENNY WAMPLER: You have approval. The next item  
5 is a petition from Equitable Production Company for pooling  
6 of conventional gas unit V-535432, docket number VGOB-03-  
7 1021-1216. We'd ask the parties that wish to address the  
8 Board in this matter to come forward at this time.

9 JIM KISER: Mr. Chairman and members of the Board,  
10 again Jim Kiser and Don Hall on behalf of Equitable  
11 Production Company.

12

13 DON HALL

14 DIRECT EXAMINATION

15 QUESTIONS BY MR. KISER:

16 Q. Mr. Hall, do your responsibilities include  
17 the land involved in this unit and in the surrounding area?

18 A. They do.

19 Q. And are you familiar with the application we  
20 filed seeking establishment of a unit and the pooling of any  
21 unleased interest in that unit for EPC well number V-535432,  
22 which was dated September 19th, 2003?

23 A. Yes.

24

--

1           Q.       Is Equitable seeking to force pool the  
2 drilling rights underlying the drilling unit as depicted at  
3 Exhibit A, that being plat to the application?

4           A.       We are.

5           Q.       Does Equitable own drilling rights in the  
6 unit involved here?

7           A.       We do.

8           Q.       Prior to filing the application, were  
9 efforts made to contact each of the respondents and an  
10 attempt made to work out a voluntary lease agreement?

11          A.       Yes.

12          Q.       What is the interest of Equitable under  
13 lease in the unit?

14          A.       We have 90.06% of the unit leased.

15          Q.       And are all the unleased parties set out in  
16 Exhibit B-3?

17          A.       They are.

18          Q.       Are you familiar with the ownership of  
19 drilling rights of parties other than Equitable underlying  
20 this unit?

21          A.       Yes.

22          Q.       And what is the unleased portion?

23          A.       9.94%.

24  
~

1           Q.       And again, in this particular unit we do not  
2 have any unknown or unlocateable owners, is that correct?  
3           A.       That's correct.  
4           Q.       In your professional opinion, was due  
5 diligence exercised to locate each of the respondents named  
6 herein?  
7           A.       They were.  
8           Q.       Are the addresses set out in Exhibit B to  
9 the application the last known addresses for the respondents?  
10          A.       Yes.  
11          Q.       Are you asking this Board to force pool all  
12 unleased interests listed Exhibit B-3?  
13          A.       Yes.  
14          Q.       Are you familiar with the fair market value  
15 of drilling rights here and in the surrounding area?  
16          A.       Yes.  
17          Q.       Can you advise the Board as to what those  
18 are?  
19          A.       A five dollar bonus, five year term, with  
20 one-eighth royalty.  
21          Q.       In your professional opinion, do the terms  
22 you testified to represent the fair market value of and fair  
23 and reasonable compensation to be paid for drilling rights  
24



1 within this unit?

2 A. Yes.

3 JIM KISER: Again, Mr. Chairman, I'd ask that the  
4 statutory election option testimony that was taken in 03-  
5 1021-1199 be incorporated for purposes of this hearing.

6 BENNY WAMPLER: It will be incorporated.

7 Q. Again, Mr. Hall, since we don't have any  
8 unknown/ unlocateable interest owners within the unit, the  
9 Board does not need to establish an escrow account for this  
10 unit?

11 A. That's correct.

12 Q. And who should be named the operator under  
13 the fore pooling order?

14 A. Equitable Production Company.

15 Q. And what is the total depth of the proposed  
16 well under the plan of development?

17 A. 6298 feet.

18 Q. And the---?

19 A. 6258 feet, I'm sorry.

20 Q. 6258?

21 A. Yes.

22 BENNY WAMPLER: That's what on the AFE.

23 JIM KISER: That's on the AFE.

24

1           SHARON PIGEON: 88 is on the application.

2           JIM KISER: Yeah, on the application. Must be a  
3 typo.

4           Q.       The estimated reserves for the unit?

5           A.       300,000,000 cubic feet.

6           Q.       Has an AFE been reviewed, signed and  
7 submitted to the Board as Exhibit C to the application?

8           A.       It has.

9           Q.       Was it prepared by an engineering department  
10 knowledgeable in the preparation of AFEs and knowledgeable in  
11 regard...particularly in regard to preparation for AFEs for  
12 wells in this area?

13          A.       Yes.

14          Q.       In your opinion, does it represent a  
15 reasonable estimate of cost?

16          A.       It does.

17          Q.       What are those costs?

18          A.       The dry hole cost is \$170,449, and the  
19 completed well cost is \$305,808.

20          Q.       Do these costs anticipate a multiple  
21 completion?

22          A.       They do.

23          Q.       Does your AFE include a reasonable charge  
24

1 for supervision?

2 A. Yes.

3 Q. In your professional opinion, would the  
4 granting of this application be in the best interest of  
5 conservation, the prevention of waste and the protection of  
6 correlative rights?

7 A. Yes.

8 JIM KISER: Nothing further of this witness at this  
9 time, Mr. Chairman.

10 BENNY WAMPLER: Questions from members of the Board  
11 of this witness?

12 (No audible response.)

13 BENNY WAMPLER: Anything further?

14 JIM KISER: We'd ask that the application be  
15 approved as submitted.

16 DONALD RATLIFF: So moved, Mr. Chairman.

17 BENNY WAMPLER: Motion to approve.

18 KEN MITCHELL: Second.

19 BENNY WAMPLER: Any further discussion?

20 (No audible response.)

21 BENNY WAMPLER: All in favor, signify by saying  
22 yes.

23 (All members say yes.)

24

--

1           BENNY WAMPLER: Opposed, say no.

2           BENNY WAMPLER: You have approval. Thank you.

3           Finally, you Board members have received the

4 minutes and result of hearing for September 16th, 2003. Are

5 there any additions or corrections? If not, I'd welcome a

6 motion for approval.

7           KEN MITCHELL: Motion for approval, Mr. Chairman.

8           DONALD RATLIFF: Second.

9           BENNY WAMPLER: Motion and second. Any further

10 discussion?

11           (No audible response.)

12           BENNY WAMPLER: All in favor, signify by saying

13 yes.

14           (All members say yes.)

15           BENNY WAMPLER: Opposed, say no.

16           (No audible response.)

17           BENNY WAMPLER: They are approved. Thank you.

18           DON HALL: Thank you all.

19           BENNY WAMPLER: Mr. Eide, do you have anything?

20           GARY EIDE: No.

21           BENNY WAMPLER: I think we probably have about the

22 same number of docket items for next month. Thank you so

23 much.

24

1 STATE OF VIRGINIA,

2 COUNTY OF BUCHANAN, to-wit:

3 I, Michelle Brown, Court Reporter and Notary Public  
4 for the State of Virginia, do hereby certify that the  
5 foregoing hearing was recorded by Patricia G. Church on a  
6 tape recording machine and later transcribed by me  
7 personally.

8 Given under my hand and seal on this the 12th day  
9 of November, 2003.

10 NOTARY PUBLIC

11 My commission expires: August 31, 2007.  
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